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The Sheriffs and the Administrative System of Henry I

THE lay officials employed by William the Conqueror, whether in central government or in ruling the shires, were regularly of baronial status. These were not the only officials, for there was an important group of curial bishops, and a force of trained clerks was utilized in the work of the chancery, if not also in that of the treasury. But the dominant element in early Norman administration in England was baronial. The first apparent impulse in an opposite direction may be due to the feudal disorders of the reign of William Rufus. At any rate it is clear that this king appointed some special agents to carry into effect his novel measures and policies. By 1106, the date of the battle of Tinchebrai, the second generation of the feudal nobility in which the Conqueror placed dependence had in no small measure proved wanting. The barons who loyally supported Henry I in the early and troublous years of his reign seem to have enjoyed his undying favour. They remained a powerful influence in government. In numerous instances, however, their sons did not attain the same position. The new men, who aided the king at the crisis of the reign, and who sometimes acquired the confiscated lands of the rebels, henceforth became more and more prominent. Within twenty years a remarkable circle of these persons held the great offices of state and at the same time served as sheriffs, a combination of functions which had not been infrequent in the days of baronial control. The best illustration, therefore, of the change from the earlier to the later type of administrative staff is afforded by the personnel of the shrievalty in the reign of Henry Beauclerc.

Before Tinchebrai, as indeed in the Conqueror's time, one

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finds the names of obscure sheriffs;[1] but well after 1100 the heads of a dozen shires were still either sheriffs of the Domesday period or their sons. William of Cahagnes was in office in the earliest years of the reign,[2] Roger Bigod apparently until his death in 1107,[3] Edward of Salisbury possibly until about the same date,[4] Urse d'Abetot some years longer,[5] and Aiulf the king's chamberlain until fairly late in the reign.[6] Devon, formerly in the hands of William, son of Baldwin of Exeter, about 1107 was passing to his brother Richard fitz Baldwin.[7] Haimo the dapifer and Robert,[8] sons of Haimo the dapifer of the Conqueror, for fifteen years or more served as sheriffs of Kent. In the place of Robert of Stafford was his son Nicholas,[9] and in that of Hugh de Port in Hampshire his son Henry.[10] Ivo de Grantmesnil probably held his father's position in Leicestershire[11] until in 1102 he suffered forfeiture for his rebellion. Finally, another hereditary shrievalty had towards the end of the late reign

[1] These include 'P.', sheriff of York before 1104 (*Monasticon*, vi, part iii, 1178); Roger, sheriff of Huntingdon (*Ramsey Chartul.*, Rolls Series, i. 238), who may well be the same as Roger, sheriff of Surrey (Farrer, *Itinerary of Henry I* (1920), no. 86); Helgot, sheriff of Nottingham before 1108 (Blythe Chart., Harl. MS. 3759, fo. 120); Alfred of Essex (*Cartul. Monast. S. Iohannis de Colecestre*, p. 27; *Chron. Monast. de Abingdon*, ii. 57–60); William of Oxford (*ibid.* ii. 84, 93), who was a tenant-in-chief (Farrer, no. 302); Foucher, sheriff of Shropshire (*ibid.* nos. 38, 51); Roger Picot of Northumberland (*Monasticon*, vi. 144), who stands in place of Robert Picot, sheriff in 1095 (Davis, *Regesta*, no. 51). Geoffrey, sheriff of Buckingham (*Monasticon*, i. 165), may belong to this period, but possibly only to the preceding reign. Richard son of Gotse, sheriff of Nottingham (*Monasticon*, vi, part iii, 1179), and apparently of Derby also (Farrer, no. 38), is a better-known figure.

[2] Farrer, *Itinerary*, nos. 44, 123. The succeeding sheriff of Northamptonshire, Robert de Paville, is mentioned between 1104 and 1106 (*ibid.* no. 147).

[3] A writ of the period 1102–6 (*Ramsey Chartul.*, Rolls Series, i. 249) shows that he was sheriff of Suffolk; the form of address in various writs (Farrer, *Itinerary*, nos. 78, 79) indicates that in 1105 he also held Norfolk.

[4] See *ante*, xxvi. 490. Active at the *curia* as early as 1170 (*Selby Coucher Book*, i. 11–12; *Monasticon*, iii. 499), and still earlier if we accept *Hist. Monast. Selebiensis*, p. 9. Cf. p. 164, n. 6, below.

[5] Roger, his son and successor, was sheriff of Worcestershire at some time 1110–September 1113 (Farrer, no. 290 *a*).

[6] Domesday sheriff of Dorset, holding Somerset also in the preceding reign (*ante*, xxxiii. 151, n. 48); sheriff of both counties in this reign before the death of Urse d'Abetot (*Monasticon*, i. 44, no. 67). Cf. p. 167, n. 2, below.

[7] Certainly sheriff in 1107 (*Montacute Chartul.*, Somerset Record Soc., p. 121), hardly in 1100 (Farrer, *Itinerary*, no. 32).

[8] Haimo appears as sheriff quite early in the reign (*Monasticon*, i. 164, no. 14; Farrer, no. 21), also within the period July 1107–July 1108 and in the period 1114–16 (Farrer, nos. 202, 359); Robert at some time within the period 1103–9 (Round, *Calendar of Docs. in France*, no. 1377).

[9] Sheriff in the preceding reign (Davis, no. 456), mentioned as in office in a document possibly as late as 1117 (*Monasticon*, vi, part ii, 1043, no. 7).

[10] Davis, nos. 377, 379; Round, *Calendar*, no. 154; Farrer, no. 37. Cf. p. 165, below.

[11] Bateson, *Leicester Records*, p. xiii; Ordericus Vitalis, ed. Prevost, iv. 169: 'municeps erat et vicecomes et firmarius eius.'

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fallen to Walter of Gloucester, who was destined to hold it about twenty years longer and to become the king's constable.[1]

Even before 1106 the king had counteracted the influence of baronial officials of doubtful or more than doubtful loyalty by the employment of new men. At least two sheriffs who owed all to the royal favour were a heritage from the reign of William Rufus, and both continued to rise. Osbert, formerly known as the priest, retained the shrievalty of Lincolnshire, and before 1107 was also entrusted with that of Yorkshire.[2] His marked material prosperity[3] and his tenure in both these positions until his death show that he enjoyed the king's especial favour. Hugh of Buckland, an important curial, justice, and sheriff of Berkshire and Bedfordshire before the close of the late reign,[4] was much esteemed by the king, and before Tinchebrai held in addition to these counties at least four others, including the shrievalty of London and Middlesex.[5] It is possible that the remaining two of the eight attributed to him a little later are to be counted also at this time, but there is no certainty as to their identity. Richard de Belmeis, who despite his earlier employment in the service of Robert of Belesme[6] remained loyal to the king in 1102, was made administrator of the Shropshire palatinate after its forfeiture and placed in a position which is described both as that of steward[7] and of sheriff. His elevation in 1108 to the see of London and his appearance among the king's great officials[8] are further proofs of his standing at court.

The period between 1106 and 1110 was marked by the rise of several more sheriffs of the same class and by the displacement

[1] Mentioned as sheriff in this period (Farrer, nos. 277, 290 A: *Chron. Monast. de Abingdon*, ii. 105) and as constable in 1115 (Farrer, no. 361).

[2] *Selby Coucher Book*, i. 27–8.

[3] For his grant to Selby Abbey see *Selby Coucher Book*, i. 6–7; Farrer, *Early Yorkshire Charters*, i. 355. He was sometimes a witness to the king's writs.

[4] *Chron. Monast. de Abingdon*, ii. 43; Davis, no. 395.

[5] Hertfordshire in 1106 or 1107 (*Liber Eliensis*, p. 298); Essex at Christmas, 1100 (Farrer, *Itinerary*, no. 32; cf. *Monasticon*, i. 164, no. 15, and vi. 105); Buckinghamshire before 1107 (*Chron. Monast. de Abingdon*, ii. 106–7; cf. 98, 99), certainly by 1104; London and Middlesex before the summer of 1107 (*ibid.* ii. 56), possibly as early as 1103 (Round, no. 1377), clearly before William of Mortain suffered forfeiture after Tinchebrai (St. Albans Chartulary, Cotton MS., Otho D. iii, fo. 73).

[6] *Annales Monastici*, Rolls Series, ii. 43.

[7] *Brut y Tywysogion*, anno 1106; Ordericus Vitalis, ed. Prevost, iv. 275. According to Eyton, *Antiquities of Shropshire*, ii. 193, he was the successor of Rayner, the Domesday sheriff. It is probable, then, that Foucher, the sheriff of 1102, was his subordinate, and indeed both sheriffs are named in *Monasticon*, vi, part ii, 1043. Farrer, *Itinerary*, no. 437, possibly shows Bishop Richard in control as late as 1121. Owen and Blakeway, *Hist. of Shrewsbury*, i. 72, n. 2, make Payn fitz John his successor. Fulco is named as sheriff in the period 1130–2 (Farrer, *Lancashire Pipe Rolls*, p. 372).

[8] As one of the judges who sat at the treasury at Winchester (*Chron. Monast. de Abingdon*, ii. 116). He had been reeve of Chichester in 1107 (Farrer, *Itinerary* no. 106).

of some of the baronial sheriffs in shires which they had long held. Gilbert the knight, whose shrievalty in Surrey begins not later than 1107, in 1110 had also the counties of Cambridge and Huntingdon.[1] Hugh of Leicester, the seneschal of Matilda, daughter of Earl Simon of Senliz, in her widowhood, is represented as sheriff and also as benefactor of the church at Daventry in Northamptonshire.[2] Hugh almost certainly held the shrievalty of Northamptonshire before the death of Earl Simon in 1109,[3] and apparently held that of Warwickshire by about 1108.[4] His surname, moreover, indicates that he was best known as sheriff of a third county, which he is known to have held at some time after 1109 and before 1120.[5] Indeed he may have been made sheriff of Leicester, through the influence of Robert of Meulan, not long after the disgrace of the Grantmesnils. Other baronial shrievalties had vanished, one in Wiltshire by 1107,[6] and another in Hampshire by 1110. At the latter date William of Pont de l'Arche, already prominent in the king's curial service, held both counties.[7] Since Hugh of Buckland is mentioned in the tenth year of the reign as sheriff of his eight shires,[8] it seems clear, therefore, that no less than seventeen shires were at that date under the control of six of the king's trusted agents, who were all new men.

This high centralization, obviously the result of unusual stress, was probably soon relaxed somewhat, for in the lifetime of Hugh of Buckland another sheriff is mentioned in Hertfordshire.[9] Certainly this was the case after his death and that of Osbert, both of which seem to have occurred in 1115.[10] Fewer counties were now likely to be controlled by one person, and a succession of sheriffs of lesser rank becomes traceable in various localities. In Oxfordshire alone do sheriffs of some rank seem to supersede obscure persons. Here Thomas of St. John and Richard de Monte,

[1] Farrer, *Itinerary*, nos. 252, 267; Round, *Commune of London*, pp. 121–3. Sheriff of Surrey before the death of Roger Bigod (Robinson, *Gilbert Crispin*, pp. 141–2; Westminster Chartul., Cotton MS., Faustina A. iii, fo. 67).

[2] *Monasticon*, v. 178–9; cf. Farrer, *Itinerary*, no. 311.

[3] *Monasticon*, vi, part iii, 1273, no. 33; cf. Farrer, *Itinerary*, no. 219.

[4] He seems to be the 'H. sheriff of Warwick' of *Monasticon*, vi, part ii, 1043, no. 4. His son Ivo in 1130 held land of the earl of Warwick (*Pipe Roll*, 1130, p. 108) in Warwickshire.

[5] After the death of Earl Simon and while Geoffrey Ridel was living: Chartul. of St. Andrews, Northampton, Cotton MS., Vespasian E. xvii. fo. 17 d.

[6] Walter Hosate by this date (Farrer, *Itinerary*, no. 173) holds the old shrievalty of Edward of Salisbury.

[7] *Anle*, xxxv. 392, no. 25. He was employed upon the king's special business in Hampshire by 1106, possibly by 1103 (*ibid.* p. 391, nos. 21, 23).

[8] *Chron. Monast. de Abingdon*, ii. 117.

[9] Rannulf, *Matthew Paris*, vi. 36; Farrer, *Itinerary*, no. 361.

[10] Farrer, *Early Yorkshire Charters*, ii. 305–6; Farrer, *Itinerary*, no. 361; Robinson, *Gilbert Crispin*, p. 138.

who on occasion appear at the great *curia*, alternately and for at least one year jointly,[1] held the office for approximately the whole of the decade following 1107. But the number of hereditary shrievalties held by great barons continued to decline despite the well-known succession in Worcestershire, first of the son, then of the son-in-law of Urse d'Abetot.[2] Well before 1120 Kent had passed from the family of Haimo and was in the hands of William of Eynesford, distinctly a man of the new order.[3] William Bigod, who succeeded his father as *dapifer*,[4] was made sheriff of Suffolk and probably of Norfolk[5] also in recognition of the services of the elder Bigod. Yet before William went down with the White Ship in 1120 both of these counties had been held by two other sheriffs of good family but of lesser rank.[6] Nicholas of Stafford, although called by the title of sheriff in 1130,[7] could not have held the ancestral office for seven years preceding that date.[8] In all these, as in the two earlier cases, the son of a Domesday sheriff in his lifetime [9] made way for a member of the new ruling circle. Moreover Aiulf the chamberlain was after a time superseded in Dorset and Somerset. By 1123, at the latest, only three sheriffs of the older type remained. Walter of Gloucester in Gloucestershire, Walter de Beauchamp in Worcestershire, and Richard fitz Baldwin in Devon each held the county ruled by two of his family before him. Richard, like his successor of 1128–30, appears also to have held Cornwall.[10]

[1] Thomas was sheriff first. As to his possessions in England and Normandy, see *Pipe Roll*, p. 3, and Round, *Calendar*, no. 724. The joint shrievalty was in the eleventh year of the reign (*Chron. Monast. de Abingdon*, ii. 119). Richard was sheriff for several years after this (*ibid.* pp. 89, 120), then apparently Thomas again (Farrer, *Itinerary*, no. 316).

[2] See *Dict. of Nat. Biog.*, *s.n.* 'Urse d'Abetot'. Walter de Beauchamp, the successor of Urse's banished son Roger, was placed in possession of the lands of the latter possibly as early as 1114 (Brit. Mus. Add. MS. 28024, fo. 149; Farrer, *Itinerary*, no. 335), clearly by 1116 (*ibid.* no. 319).

[3] Sheriff of London at some time during the reign (*Chron. Ramsey Abbey*, Rolls Series, p. 249); mentioned as sheriff of Kent in a writ possibly as early as 1114 (Elmham *Hist. Monast. Sti. Augustini*, Rolls Series, pp. 365–6), and according to Farrer's chronology (*Itinerary*, nos. 385, 386, 554) sheriff both in 1118 and 1127.

[4] *Monasticon*, v. 148.

[5] *Ramsey Chartul.*, Rolls Series, i. 245, 249.

[6] Ralph de Beaufeu preceded Robert fitz Walter (*Ramsey Chron.*, p. 267), whose shrievalty may date as early as 1114 (Chartul. of St. Benet's Holme, Cotton MS., Galba E. ii, fo. 31).

[7] *Pipe Roll*, p. 82.

[8] Below, p. 168.

[9] Haimo the dapifer was only recently deceased in 1130 (*Pipe Roll*, pp. 64, 66) and his brother Robert was still living (pp. 95, 97). Walter of Salisbury, son of Edward, is mentioned at that date, and Henry de Port was a royal justice holding pleas at Dover (*Pipe Roll*, p. 65).

[10] 'H. rex Anglie Willelmo episcopo Exonie et Ricardo filio Bald' vicecomiti et omnibus fidelibus suis de Devescira et Cornwall': Inspeximus of 22 Edward I in Cotton MS. xvii. 7, part ii (before 1118). Mr. Round has shown that just prior to 1130 Richard acted as an itinerant justice (*ante*, xiv. 420–2).

For almost two decades following 1110 the usual difficulties attending the study of the sheriff are very much increased. But despite the paucity of documents and the increasing use at the chancery of a form of writ which mentions sheriffs only by title and not by name, some rather striking data are attainable. If the long tenure and wide authority of Gilbert the knight are without parallel, it is more than a coincidence that William of Pont de l'Arche, who rose to high position through administrative service, governed in the fiscal year 1127–8 the same two shires [1] which were in his charge seventeen years before. Moreover the Radulf *vicecomes*, witness of a confirmation made to Abingdon by the count of Meulan in the eighth year of the reign, seems to be Ralph Basset, a *vicinus* and especial friend of this monastery [2] and a prominent official at the *curia*. It is quite possible that he is Ralph the sheriff of Warwickshire, predecessor of Geoffrey de Clinton, who at some time about 1125 witnessed a grant of the latter to Kenilworth, although in one of the charters of the same series the name of the sheriff of this county is Roger.[3] Hugh of Leicester in 1129, as in earlier years, was in possession of the shires of Northampton and Leicester.[4] He seems to be the same person as Hugh de Warelville who held these counties until Easter 1130.[5] He had for a time acted as sheriff of Lincolnshire.[6] Moreover in the Pipe Roll of 1130 Hugh de Warelville accounted for Sussex.[7] There is no doubt that Robert fitz Walter, a tenant-in-chief, was sheriff of Norfolk and Suffolk for nearly, if not quite, fifteen years before 1129.[8] Odard of Bamborough, who held of the king a barony in his own county,[9] occupied the same position in Northumberland for as long a period,[10] probably retaining office until his death just before 1133. Warin, who may have been an

[1] In 1130 (*Pipe Roll*, p. 36) he still appears as sheriff of Hampshire, accounting for the old farm and for the *auxilium civitatis* of the third year before (p. 40; cf. Farrer, *Itinerary*, no. 551). The princely sums still due to the king in Wiltshire identify him as William the predecessor (*Pipe Roll*, p. 16) of Warin in that shrievalty (Farrer, *Itinerary*, nos. 350, 418), and link the earlier and later periods of his tenure there.

[2] *Chron. Monast. de Abingdon*, ii. 103; cf. pp. 105, 170, 188. He was in King Henry's service before 1103 (*ibid.*).

[3] *Monasticon*, vi. 221; *Collections for a Hist. of Staffordshire* (William Salt Arch. Soc.), ii. 195.

[4] *Pipe Roll*, p. 81.

[5] *Ibid.*, p. 85.

[6] *Ante*, xxiii. 725, no. 2; Farrer, *Itinerary*, no. 464; *Collections for a Hist. of Staffordshire*, ii. 203. In 1130 Hugh paid a sum which he still owed (*Pipe Roll*, p. 81) *pro separatione comitatus Lincolnie*.

[7] The sheriff of this county at a time prior to December 1125 was William fitz Ang': Reg. de Bello (Exch. Misc. Books, Augmentation Office, no. 56, fo. 65 a).

[8] Sheriff in the period 1114–16 (*Chron. Ramsey Abbey*, p. 267); in office until Michaelmas 1129 (*Pipe Roll*, p. 90); mentioned at many intermediate points.

[9] Round, *Ancient Charters*, Pipe Roll Soc. Publications, x. 33.

[10] Sheriff in 1115 or 1116 (Farrer, *Itinerary*, no. 346) and also appearing in the Pipe Roll of 1130.

exchequer official,[1] succeeded Aiulf in Dorset before 1118 and in Somerset by 1123.[2] During the fiscal year 1128–9 he held Wiltshire as a third county.[3] William of Eynesford was employed for a long term which was divided between various counties.[4] Aubrey de Vere, heir of a Domesday landholder and chamberlain, was sheriff of London and Middlesex probably before 1113[5] and as late as 1120; also of Essex, presumably in the years just preceding 1128.[6] He and Robert fitz Walter were probably the only sheriffs of this group who could make pretensions to being of good family. Maenfinin Brito, sheriff of the counties of Bedford and Buckingham from 1125 to 1129,[7] was a rising person who had probably acquired considerable possessions. Even excluding the various sheriffs of London[8] and of Lincolnshire, the list points to the dominance of the new class of local officials who often serve for long periods. Some rule wider territories than those ever entrusted to the feudatory sheriffs, and some are professional sheriffs.

The firm entrenchment of the new order in its position is further shown by the fact that officials of this type are occasionally succeeded by near relatives. Gilbert at his death in 1125 made way in all three of his shires, as Mr. Round has shown,[9] for Fulk his nephew. Anschetill de Bulmer, Osbert's successor, originally reeve of the North Riding[10] and later the possessor through royal grant of some of the lands of former rebels, retained the shrievalty until his death in 1129,[11] when it passed to his son, Bertram, the sheriff of 1130. William of Buckland for a time had two of the counties which his father had ruled,[12] and the services of his family still find recognition in 1130 in the fact that he farms Windsor.[13] Richard de Heriz,[14] after an interval of some years,

[1] See *ibid.* pp. 16, 23 for the record of his being pardoned his danegeld.

[2] Brit. Mus. Additional Charter 34979, part iv; Farrer, *Itinerary*, no. 487.

[3] *Pipe Roll*, p. 12. He also accounted for the new farm of Wiltshire in 1129–30, but it is uncertain if he now held Somerset.

[4] London (*Chron. Ramsey Abbey*, p. 249), Kent (above, p. 165, n. 3), and 1128–30, Essex (*Pipe Roll*, p. 52). But there was a William de Eynesford senex (*ibid.* p. 65).

[5] *Monasticon*, vi. 155; Farrer, *Itinerary*, no. 470.

[6] Brit. Mus. Add. MS. 14847, fo. 39; Add. Charter 28313; Farrer, *Itinerary*, no. 575.

[7] Mr. Round shows (*ante*, vi. 438) that in 1166 H. fitz Maenfilin, presumably his son, held fifteen knights' fees. His predecessor in both counties was Richard of Winchester (*Pipe Roll*, p. 100).

[8] For the list see Round, *Commune of London*, pp. 121–3; Farrer, *Itinerary*, nos. 267–8. See also *supra*. For the sheriffs of Lincolnshire, see *ante*, xxx. 280–1.

[9] *Commune of London*, pp. 121–2.

[10] Farrer, *Early Yorkshire Charters*, ii, introd., p. vi. [11] *Ante*, xxx. 285.

[12] Berkshire in 1119 (*Chron. Monast. de Abingdon*, ii. 160), and apparently both just before and after that year; also Hertfordshire, on account of which shire in 1130 he still owed £29 *pro defectu* covering a period of a half-year (*Pipe Roll*, p. 127)

[13] *Ibid.* p. 126.

[14] Richard son of Gotse, whom he succeeded before March 1114 (Farrer, *Itinerary*, no. 290), seems to have held both counties.

was followed as sheriff of Nottinghamshire and Derbyshire by his son Ivo de Heriz,[1] in office 1127–9. Futhermore Serlo de Burg, who first appears in the royal service as custodian of the property of the archbishop of York,[2] in later years as justice,[3] the type of person much employed in administering King Henry's demesne, held these two shires[4] prior to 1127 and seems to have purchased them, in or just before 1129, for his son Osbert Silvanus.[5] The king, having assured himself that administrative power shall not be in the hands of the nobles who have defied authority, is content to let it rest with new families which have proved their capacity. The administrative motive is present in these days even when the personal or political seems to prevail.

This holds good even where hereditary or baronial shrievalties remain. Miles of Gloucester, sheriff as well as constable of the realm, after the decease of his father, Walter, from 1128 to 1130[6] held Staffordshire[7] along with the old family county. Moreover he and Payn fitz John, another border lord prominent at the *curia*, and sheriff of Shropshire and Herefordshire,[8] were royal justices both in this region and in Pembrokeshire.[9] The story told in the *Gesta Stephani*[10] of their oppressive rule from the Severn to the sea shows that they were not lacking in energy.

The occasional letting of a county for a *gersoma*, the equivalent of the later fine *pro comitatu habendo*, is a further mark of the new administrative system. Men who held even the highest positions at court were in some instances permitted to purchase them. The *gersoma* represented the consideration for which a sheriff received his office with its opportunities for emolument. The arrangement was sometimes made for a period of five years, the original recorded instance of this being the shrievalty of Robert de Stanley in Staffordshire,[11] which apparently covers the interval between 1123 and 1128. The payment made was heavy and varied in individual cases.[12] The arrangement was discon-

[1] Superseded by 1130 (*Pipe Roll*, pp. 6, 7). See Farrer, *Itinerary*, no. 610.

[2] *Pipe Roll*, p. 31. Presumably in the period 1114–19.

[3] *Ibid.* p. 35. Osbert his nephew sat with him.

[4] *Ibid.* p. 31. Cf. *Monasticon*, vi, part iii, 1180.

[5] He owes in 1130 'xx Marcas argenti pro ministerio Osberti filii sui' (*Pipe Roll*, p. 31). Osbert also held a knight's fee of the king (*ibid.* p. 9). He owed only a half-year's new ferm at Michaelmas 1130 (*ibid.* p. 7).

[6] Farrer (*Itinerary*, no. 578) dates between 1127 and 1129 the writ confirming him in his father's lands. The Pipe Roll of 1130 indicates that he had been sheriff two years.

[7] *Ibid.* Apparently for two years preceding Michaelmas, 1130.

[8] Farrer, *Itinerary*, nos. 547, 690; *Gesta Stephani* (Rolls Series), p. 16; Owen and Blakeway, *History of Shrewsbury*, i. 73, n. 2.

[9] *Pipe Roll*, pp. 74, 78, 136; Miles also in Hants (p. 38).

[10] p. 16. [11] *Pipe Roll*, p. 73.

[12] For Oxfordshire in 1130, 400 marks, term unspecified (*ibid.* p. 2); for London, 120 marks for the year (*ibid.* p. 144).

tinued when a sheriff was replaced, and he then paid according to the proportion of the specified time he had been in office.[1] Fulk, the nephew of Gilbert, left office owing eighty pounds of *gersoma*,[2] presumably the amount due for the four years he held his various counties. Whenever applied, this whole procedure was obviously in conflict both with indeterminate office-holding and with hereditary expectancy.

The evidence of curial control over the shrievalty in and just before 1130 is both varied and convincing. Further proofs which may be cited are the increased activity of itinerant justices and the obvious subordination of the sheriffs' fiscal activities to a strong exchequer. Sheriffs were beginning to come and go in comparatively rapid succession [3] as in the time of Henry II. The last of the hereditary sheriffs in the south-west was superseded.[4] Some were mulcted at the exchequer for negligence. One whose administrative incapacity is fairly well established by the Pipe Roll of 1130 [5] had lately been dismissed from office. Furthermore it is clear that special curial agents who had long held the position were being shifted from county to county [6] very much as was done at some later periods of administrative reorganization.

A final and still more potent consideration appears in the personnel of the shrievalty for the fiscal year 1129–30. The king's household and other state officials now serve as sheriffs in larger number than in the two preceding reigns. The few feudal figures of importance who are still sheriffs are so employed. Such are the two hereditary sheriffs Miles the constable and Walter de Beauchamp, who sits in the seat of Urse d'Abetot, and is probably the king's dispenser besides.[7] The second Robert d'Oilly, another constable, seems to be the Robert who for the past year has been sheriff

[1] William de Eynesford for holding the counties of Essex and Herts a year gave 20 marks, a fifth of the sum which had been specified for a quinquennial period (*ibid.* pp. 52–3); Hugh de Warelville 20 marks for holding Leicestershire and Northamptonshire a half-year of the five for which he was to pay 200 marks (*ibid.* p. 85).

[2] *Ibid.* p. 44.

[3] Apart from Lincolnshire and London and Middlesex, the shrievalty of Nottinghamshire and Derbyshire now exemplifies this tendency. In Berkshire Anselm *vicomte* of Rouen in office 1127–9 succeeded Baldwin fitz Clare (*Pipe Roll*, pp. 122, 124). In Kent Ansfrid, probably the former *dapifer* of the archbishop of Canterbury (Rochester Chart., Dom. Ax., p. 102), could have held office but one or two years preceding Ruallo, sheriff 1120–3.

[4] Richard fitz Baldwin served apparently in 1126 or 1127 (Farrer, *Itinerary*, no. 532). For 1128–30 Geoffrey de Furnell held both Devon and Cornwall.

[5] Reotold, sheriff of Oxfordshire (*Pipe Roll*, p. 2).

[6] William of Pont de l'Arche from Wiltshire (above, p. 166) to Berkshire, which he holds with Hampshire, 1129–30; William de Eynesford from Kent to Essex (above, p. 167, n. 4); Aubrey de Vere still earlier from London to Essex (above, p. 167); Hugh of Warelville in 1130 holds Sussex after giving up various other counties.

[7] This office after his decease in 1133 was held along with his lands by his son William (Farrer, *Itinerary*, no. 705; cf. no. 497).

of Oxfordshire.[1] Of the three leading chamberlains who are sheriffs, only one, Aubrey de Vere, belongs to the hereditary class. The Norman, Geoffrey de Clinton, who has Warwickshire, has risen by long service at the *curia*,[2] and has been treasurer[3] as well as chamberlain, and also itinerant justice in many counties. William of Pont de l'Arche, lately married to the daughter of William Mauduit, is now paying a large sum for his *ministerium curiae*,[4] and a little later will apparently be treasurer.[5] William d'Aubigny the Breton, a staunch supporter of the king in 1106,[6] now the husband of a daughter of Roger Bigod[7] and sheriff of Rutlandshire, has been the king's justice in Lincolnshire.[8] Bertram de Bulmer as well as Warin appears to have a post at the exchequer, and Osbert Silvanus has apparently sat at the king's pleas.[9] Excluding from consideration the sheriffs of London, who this year number four, and the unknown sheriff of Somerset, a county apparently lost from the Pipe Roll of 1130, there are only seven sheriffs of English counties[10] who seem to hold no position at the *curia*, and of these two are otherwise known to have had the king's special confidence.[11]

This year shows the highest centralization in local government since the period following Tinchebrai. The situation was now very exceptional, inasmuch as two curials, Aubrey de Vere and Richard Basset, jointly held eleven shires. This famous arrangement is known to have been a sudden creation.[12] It was formed in the main at Michaelmas 1129, when Robert fitz Walter and Maenfinin each surrendered his two shires, and Fulk the three which had been

[1] The sheriff of 1130 owes 26 gold marks 'de debito patris sui pro pecunia Widonis de Oilly' (*Pipe Roll*, pp. 1–2). Robert d'Oilly is represented (*Dict. of Nat. Biog.*, *s.n.* 'Robert d'Oilgi') as 'civitatis Oxnefordiae sub rege preceptor', and he and his wife Edith, in legend at least, as resident in the castle here (*Monasticon*, vi. 251) when they founded the abbey of Osney. He was the founder of the church of St. George within the castle of Oxford (Farrer, *Itinerary*, no. 603). I believe that he first links this shrievalty with the custodianship of the castle which had still earlier been in his family.

[2] For his appearance at the *curia* about 1110 see *Ramsey Chartul.* i. 241–2; ii. 83. Mr. Round (*The Ancestor*, xi. 156–7) traces his origin to the neighbourhood of St. Lô, where he had a castle.

[3] *Monasticon*, vi. 220, 221.

[4] *Pipe Roll*, p. 37.

[5] So accepted by the editors of the Oxford edition of the *Dialogus* (pp. 20–1), and apparently by Mr. Round (*ante*, xiv. 423).

[6] *Dict. of Nat. Biog.*, *s.n.* 'Albini, William de'.

[7] *Red Book of the Exchequer*, i. 397; Farrer, *Early Yorkshire Charters*, i. 461. As to his shrievalty, see *Pipe Roll*, pp. 133, 134.

[8] *Ibid.* p. 115.

[9] *Ibid.* p. 35.

[10] Odard in Northumberland; Hugh fitz Baldric, Northamptonshire; Geoffrey de Furnell, Cornwall and Devon; Ruallo de Valognes, Kent; Hildret, Carlisle; Reiner of Bath, Lincolnshire; and a Vernon in Westmorland.

[11] Odard and Reiner, the latter classed by Ordericus along with Ralph Basset and Hugh of Buckland among the persons raised by the king from the dust.

[12] Round, *Geoffrey de Mandeville*, p. 298.

for some twenty years in his family.[1] Probably at Easter it was completed by superseding Hugh of Warelville in the shires of Leicester and Northampton which he had recently obtained for a period of five years, and William of Eynesford in Essex and Hertfordshire under exactly the same circumstances.[2] As Mr. Round has observed,[3] Aubrey and Richard did not farm these counties according to customary usage, but were in the position of the later *custodes*. The king was thus free to dispose of all the profits arising within a considerable portion of the realm, and the fact affords the one plausible explanation[4] of this very remarkable innovation. Moreover, in still other directions this is a year of innovation in exchequer accounting.[5] It is certain that several of the retiring sheriffs were sadly in arrears and that the two special administrators placed in control of this strong fiscal unit were able to advance a large sum, a *superplusagium*, over and above their receipts, a part of which went to supply the king's needs in Normandy.[6] Aubrey de Vere, the king's chamberlain,[7] had long been a special agent of the administrative *curia* and had had much experience as a sheriff as well. The same may be said of Richard's father, Ralph Basset. All three held the highest judicial position[8] and did wide itinerant service. Richard by marriage also[9] was identified with the same circle at court. The placing of two officials of this type over so wide a region and the dismissal of tried and experienced sheriffs are sufficient indications that the step has administrative rather than political significance, and that the matter lay very close to important interests of the king.

[1] *Pipe Roll*, 1130, pp. 44, 90, 100.

[2] *Ibid.* pp. 53, 85. Maenfinin had held his shire for four years of what was probably a longer term (*Pipe Roll*, p. 100). Fulk had probably served but part of a five-year term.

[3] Round, *Geoffrey de Mandeville*, pp. 297–8.

[4] The accusation of treason brought against Geoffrey de Clinton at the Easter court, 1130 (*Henry of Huntingdon*, Rolls Series, p. 252), came rather too late to give the explanation. Moreover, there is no intimation that Geoffrey's associates, either sheriffs or treasury officials, were involved. At the following Michaelmas he was still sheriff. William of Pont de l'Arche was in custody of land which he had held in Oxfordshire and Richard Basset of his land in Leicestershire (*Pipe Roll*, pp. 6, 81).

[5] The blanched farms of the previous year in the eleven counties give way to farms paid by weight as one might expect. But the same change occurs also in the counties of Berkshire, Hampshire, Wiltshire, Kent, Warwickshire, and Lincolnshire, and for half of the year in those of Nottinghamshire and Derbyshire.

[6] Six hundred out of a thousand marks (*Pipe Roll*, p. 63).

[7] He was probably not great chamberlain until 1133 (Farrer, *Itinerary*, no. 698). Concerning him and his family, see Round, *Geoffrey de Mandeville*, pp. 388–96.

[8] Aubrey is designated 'iustitiarius totius Anglie' (Round, *Geoffrey de Mandeville*, p. 80), a title also given the two Bassets by Henry of Huntingdon (Rolls Series, p. 318; cf. *Abingdon Chron.* ii. 170).

[9] With the daughter of Geoffrey Ridel (Sloane MS., xxxi. 4 (47)), another justiciary of all England.

The climax of the administrative revolution was apparently soon passed. How long this group of counties held together is unknown. But Aubrey de Vere before the next Michaelmas agreed to give a hundred marks to be permitted to withdraw from the shrievalties of Essex and Hertfordshire.[1] Fulk seems again to have been sheriff of Huntingdonshire after 1133,[2] and Robert fitz Walter, as Mr. Round has shown, was certainly sheriff in East Anglia until a decidedly later period.[3] The new curial control over sheriffs, which largely repaired the chief defect in the Norman plan of local government in England, of course broke down in Stephen's reign. A few baronial heads of shires who survived from King Henry's time were destined sometimes to aid, more often to plague, his successor. The changes in the personnel of the office during the first third of the twelfth century none the less show convincingly a steady approach towards conditions of the Angevin period, and, as individual cases prove, follow a corresponding trend in the selection of the king's central administrative staff.[4] W. A. Morris.

[1] *Pipe Roll*, p. 53.

[2] *Ramsey Chartul.*, Rolls Series, i. 152; cf. iii. 176.

[3] *Ante*, xxxv. 483–6.

[4] Through the kindness of Dr. Curtis H. Walker, the writer, after this article was written, was enabled to read in proof the article 'Sheriffs in the Pipe Roll of 31 Henry I' (*ante*, xxxvii. 67). Dr. Walker's chronology of the shrievalties was in several instances more exact than that of the writer, and acknowledgement of the debt is gratefully made.

The Great Statute of Praemunire

THE so-called statutes of *praemunire* are among the most famous laws in English history, and of the three acts to which the title is commonly applied, that of 1393—sometimes called 'the great statute of praemunire' by modern writers[1]—has won special renown, partly because it has been generally regarded as an anti-papal enactment of singular boldness, and also because it furnished Henry VIII with perhaps the most formidable of the weapons used by him to destroy Wolsey and to intimidate the clergy. But when the student, anxious to know precisely what the statute contained and what it was designed to effect, turns for light to the works of modern historians, he finds himself faced by a perplexing variety of opinions. Stubbs, who in one place[2] says bluntly that 'the great statute of praemunire imposed forfeiture of goods as the penalty for obtaining bulls or other instruments at Rome', elsewhere[3] restricts its effect to those who procured bulls, instruments, or other things 'which touch the king, his crown, regality, or realm', while in another passage[4] he states that though the statute allowed appeals to Rome 'in causes for which the English common law provided no remedy', it nevertheless contributed to a great diminution in the number of such appeals. In other works one may read that 'the great statute of Praemunire was the most anti-papal Act of Parliament passed prior to the reign of Henry VIII; the Act from which the rapid decline of Papal authority in England is commonly dated';[5] that by the statute 'papal interference was shut out [of England] as far as law could shut it out';[6] or that with its predecessors of 1353 and 1365 it ranked as 'the great bulwark of the independence of the National Church'.[7] On the other hand, Makower, speaking of the fourteenth and fifteenth centuries, says: 'Only in so far as was necessary for the execution of the statutes against provisors was the endeavour

[1] e.g. by Stubbs (*Const. Hist.*, ii, 4th ed., 509) and Sir James Ramsay (*Genesis of Lancaster*, ii. 288).
[2] Stubbs, *loc. cit.*
[3] *Ibid.* iii, 5th ed., 342.
[4] *Ibid.* iii. 363 *seq.*
[5] Ramsay, ii. 286 *seq.*
[6] Gwatkin, *Church and State in England to the Death of Queen Anne*, p. 106.
[7] Capes, *The English Church in the Fourteenth and Fifteenth Centuries*, p. 92.

sustained to limit the power of the pope and to check appeals to him. Thus these were in general prohibited simply in cases in which the secular authorities were competent; and even then it was the right of patronage which was mainly defended. . . . Sole competence in all cases was not at this time claimed by the state.'[1] Quite recently, moreover, Professor Pollard has denied that the statutes of provisors and *praemunire*[2] were specifically anti-papal in purpose, contending that their animus was 'as much against the clerical courts in England as against the curia at Rome', that the statutes of *praemunire* 'set no limit to the pope's control over English ecclesiastical courts', and that in the middle ages the Crown 'had not the least objection' 'to appeals from English spiritual jurisdiction to the pope'.[3] And long ago Lingard argued that the measure of 1393 was not really a statute at all and thought it 'plain' that it was 'never properly passed in parliament'.[4] In face of this remarkable conflict of testimony and argument, no apology is needed for a re-examination of the purport and effect of the statute.

One misapprehension, strangely fostered by many modern writers, may be disposed of at the outset. Neither the statute of 1393 nor any other measure passed in England during the middle ages sought to prevent all exercise of the pope's authority in the country. The wording of the statute, though in some respects obscure, is clear on this point. 'If any one obtains or sues . . . in the court of Rome or elsewhere any such translations, processes, and sentences of excommunication, bulls, instruments or anything else whatsoever which touches the king our lord against him, his crown and regality, or his realm, as is aforesaid, and those who bring them into the realm or receive them, or make notification or other execution of them within the realm or without, they', with all their aiders and abettors, 'shall be put out of the protection of our said lord the king, and their lands and tenements, goods and chattels shall be forfeited to the king our lord', and they shall be arrested and brought before the king and his council to answer there, or process shall be made against them by *praemunire facias* in the manner ordained in other

[1] *Constitutional History of the Church of England* (English translation), p. 229.

[2] Following modern practice, I shall limit the term 'statutes of provisors' to acts which explicitly sought to defeat the pope's claim to dispose of all ecclesiastical benefices. Acts which strove to maintain the jurisdiction of the king's court against the rival claims of other tribunals are commonly called 'statutes of praemunire', because process by writ of *praemunire facias* was one of the means prescribed for their enforcement. It would be pedantic to quarrel with this long-established usage, but it should be remembered that both terms are applicable to the anti-papal statute of 1365, and that the other 'statutes of praemunire' were sometimes called 'statutes of provisors' in the fourteenth and fifteenth centuries.

[3] *The Evolution of Parliament*, pp. 202, 205.

[4] *History of England*, 5th ed., iii. 348 n.

statutes of provisors and others who sue in other courts in derogation of the rights of the king.[1] The act, it is clear, applies only to certain kinds of papal documents, and the records of the time show that a wide field of papal activity was unaffected by it. Englishmen continued to appeal to the papal court, to present petitions to the pope, to accept papal graces and to execute papal mandates, evidently without any thought that they were breaking the law.[2] English prelates and magnates still had agents at the curia.[3] There are, moreover, in the Year Books of the next twenty years cases in which judges and counsel not only recognize the authority of certain papal bulls but assume that the pope has a lawful jurisdiction over Englishmen in certain matters and show much scruple in avoiding encroachment on his rights.[4] Nor, to turn to later times, should it be forgotten that Henry VIII, who was not the man to put a narrow interpretation upon statutes of *praemunire*, was constrained to plead before a papal court and could not have the divorce suit decided within the realm until parliament had passed the act in restraint of appeals.

Of what nature, then, were the 'bulls, instruments, and other things' which came within the meaning of the act? Only such, at any rate, as were against the king, his crown and regality, or his realm.[5] In wording the description was somewhat unusual,

[1] 'Si ascun purchace ou pursue ou face purchacer ou pursuer en la Court de Rome ou aillours ascuns tieux translacions, processes, et sentences de escomengementz bulles instruments ou autre chose quelconqe, qe touche le Roi notre seignour encountre luy sa corone et regalie ou son Roialme come devant est dit, et ceux qe les porte deinz le Roialme ou les receive ou face ent notificacion ou autre execucion quelconqe deinz mesme le Roialme ou dehors, soient ils lour notairs procuratours meintenours abettours fautours et conseillours mys hors de la proteccion notre dit seignour le Roy, et lours terres et tenementz biens et chatieux forfaitz au Roy notre seignour; et qils soient attaches par lour corps sils purront estre trovez et amenes devant le Roy et son Conseil pur y respondre es cases avauntditz, ou qe procesne soit fait devers eux par premunire facias en manere come est ordeigne en autres estatutz des provisours.. et autres qui seuent en autry Courte en derogacion de la regalie notre seignour le Roy': *Statutes*, ii. 85 *seq.*.

[2] The dealings of Englishmen with Rome are abundantly illustrated in the *Calendar of Papal Letters*. The passing of the statute of 1393 did not cause any appreciable diminution in the number of entries concerning England in the papal registers. It is true that many of the transactions recorded were contrary to the statutes of provisors, breaches of which indeed were at times sanctioned by royal licence. But the majority were evidently quite lawful in the eyes of the parties concerned, and must have been carried out without any reference to the temporal authorities in England.

[3] Of particular interest in this relation is the letter-book of William Swan, an abbreviator of papal letters at the curia, who was often employed as agent by eminent Englishmen—notably Archbishop Kemp—in the early years of the reign of Henry VI. The book is preserved in MS. Cott., Cleop. C. iv, fos. 124–229 v°.

[4] See especially the report of the suit of *quare impedit* brought by Henry IV against Robert Hallum, bishop of Salisbury, and Henry Chichele, bishop of St. Davids (*Year Book*, ed. 1679, 11 Hen. IV, pp. 37, 59, 76), and that of a suit between two priors about an advowson (*ibid.* 14 Hen. IV, p. 14).

[5] From *Cal. of Pat. Rolls*, 1391–6, p. 635, it appears as if the prior of Kyme got into trouble because he obtained certain bulls 'not knowing that the obtaining

but its connotation was familiar, for since the Conquest the kings of England had claimed and asserted the right of excluding from the country papal documents prejudicial to their authority and to the realm. From time to time writs were issued ordering that such documents should be seized, and in 1343 it was ordained in parliament that those who introduced them should be arrested and brought before the king's council.[1] The qualifying formula in the ordinance and writs lacked precision, as it did in the act of 1393, and a king like Henry VIII might wrest it to uses which medieval kings and parliaments never contemplated. But there is no doubt how it was interpreted in 1393 and the next generation. The bulls and instruments forbidden to Englishmen were such as concerned what in the view of the secular authorities were secular affairs. By the fourteenth century most of these were recognized as secular by churchmen also; but there was still a debatable ground claimed by both the Ius Commune of the church and the Common Law of the state. It was to secure the state's hold on this that anti-papal statutes were passed and anti-papal writs issued. But no English king or parliament before the days of Henry VIII had any intention of disputing the pope's authority in that wide sphere of human concerns which every one except a few heretics agreed to call spiritual.[2] The nature and extent of papal jurisdiction within its limits were matters for the pope and the clergy. So long as the claims of the Common Law were respected it mattered nothing to the Crown whether 'spiritual' suits were decided before the English courts Christian or the papal curia.[3]

and execution of papal bulls was contrary to law'. The editor, however, ignored an important 'aforesaid', for the corresponding clause in the original runs, 'nesciente prefato priore ut asserit impetracionem bullarum predictarum nec execucionem earundem fore preiudicialem nec contra leges et statuta regni nostri existere' (Rot. Pat., 19 Ric. II, fo. 2, m. 11). The bulls in question affected the king's rights of patronage.

[1] Makower, p. 237, treats this subject with his customary lucidity and quotes a number of writs in illustration of the policy of the Crown.

[2] On the line drawn in England between temporal and spiritual affairs, see Makower, sect. 60. It is worth noting that in a petition presented by the commons in 1348 the pope is styled 'Soverein Governour de Seinte Eglise en terre' (*Rot. Parl.* ii. 173).

[3] Dr. Pollard, however, is not justified in saying (*cf. supra*, p. 174) that the animus of the statutes of provisors and *praemunire* was as much against the English church courts as against the court of Rome. Though the statutes of provisors of course contained safeguards against possible attempts of the English courts Christian to frustrate them, their sole object was to prevent papal interference with rights of patronage. As for the 'statutes of praemunire', the act of 1353 applied to suits in English church courts as well as in the court of Rome; but its enactment was due entirely to the activities of the latter, and long before it was passed the Crown had ample means of protecting its rights from aggression on the part of the English courts. The act of 1365, so far as it was new, was concerned merely with the court of Rome. When Dr. Pollard says that the statutes of *praemunire* 'set no limits to the pope's control over English ecclesiastical courts', and that the Crown had no objection

That this was the attitude of the English Crown towards papal jurisdiction can readily be inferred from English and papal records of the time. There is no need, however, to multiply citations, for we luckily have two statements of the recognized principle. In 1412 the prior of B. (the name is not given in full) brought a writ of *praemunire facias* against the prior of N. because the latter had resorted to the court of Rome in a dispute between the two about an advowson. The particulars of the case, which was a complicated one, need not concern us. But in the course of the hearing, counsel for the defence asserted that if a clerk were despoiled of his benefice by another clerk, he could sue a spoliation in court Christian or in the court of Rome, at his choice; for if a spoliation were sued, the right to the advowson of the benefice would not be at issue, and so the matter would not be temporal but spiritual. The bench held that the argument was not relevant to the case before it, but no one questioned its soundness.[1]

The principle here assumed was affirmed still more clearly in October 1415 by the royal council. Roger Lansell, clerk, had obtained from Rome citations summoning Nicholas Ryecroft, goldsmith, to answer in the curia on certain matters which (according to Ryecroft) were prejudicial to the Crown and contrary to the laws and customs of the realm, in particular an ordinance of Edward III. Ryecroft then obtained a writ of *praemunire facias* against Lansell and five others, said to be accessories, and they were summoned before the king's bench.[2] Lansell,

'to appeals from English spiritual jurisdiction to the pope', his statements, though defensible in the letter, are apt to give a false impression. For the English ecclesiastical courts were forbidden by the Crown to do many things which, in the view of the pope, they might and ought to have done. Nor must it be overlooked that the papal court was not merely a court of appeal, but also a court of first instance, and very frequently used as such by Englishmen. And to this jurisdiction of the pope as 'universal ordinary' the statutes of 1353 and 1365 did set limits, the same limits of course as were already imposed on the jurisdiction of the English courts Christian. How far Dr. Pollard's assertions are applicable to the statute of 1393 will, I hope, become clear later on.

[1] *Year Book*, 4 Hen. IV, p. 14. Counsel contended that if he presented a clerk to a church, and after institution and induction 'il est spoile de son benefice par un estrange Clerke, que de cest spoliation il puit suer en Court Christien, pur estre remise a sa Eglise, et a sa possession, ou en Court de *Rome*, a sa volunt, sans estre empeche de ceo, car par cest suit il n'est my mis a recoverer le droit de l'advowson, eins pur estre remise a son benefice arrersmains, et uncore pur cest recoverie jeo ne suy restitute a ma advowson, en quel case cest suit nest my temporal eins spiritual'.

[2] 'Comme a ce qe nous avons entendux a la suite de Nicholas Ryecroft orfeour par vertue de notre brief de Premunire facias proces soit fait . . . en notre banc envers Roger Lansell clerc . . . de ce qe mesme celui Roger deust avoir purchacez nadgairs en la courte de Rome plusieurs citacions appellacions et notificacions dicelles envers le suedit Nicholas Ryecroft pur lui avoir fait respondre en mesme la courte sur certaines choses en le suedit notre brief especifiez et plusieurs autres choses a nous et a notre corone prejudicieles encontre la duetee de sa ligeance en contempt et prejudice de nous peril ouvert de la disheritance de notre corone et encontre les loys et custumes

however, exhibited the obnoxious bulls to the council, who pronounced that the cause was purely spiritual, and that the bulls contained nothing prejudicial to the Crown or contrary to the laws and customs of the realm.[1] The story appears in the draft of a letter sent by the council to the justices of the king's bench, who were asked to consider whether in the circumstances they would proceed with the case or not. It is a pity that we are not told why Ryecroft was cited before the court of Rome; but the principle which governed the decision of the council could hardly have been put more clearly, and the tenor of the letter to the judges indicates that it was one familiar to the courts of law.

Now one might recognize that the statute of 1393 had nothing to do with affairs unanimously regarded as spiritual, and yet admit it to have been the most comprehensive and drastic of the anti-papal measures passed in medieval England. But it will be noticed that it does not expressly apply to all documents prejudicial to the king and the realm, but only to such of them as are against the king and the realm as is aforesaid.[2] What significance then is to be attached to the words 'such' (*tieux*) and 'as is aforesaid' (*come devant est dit*)?

The statute consists mainly of a long preamble, which reports certain proceedings in the parliament of 1393. The commons had complained that although suits about the right of patronage belonged to the king's court, and bishops and others of the clergy with authority to institute to benefices were bound, when ordered by the king, to execute the sentences of his court in such suits, as also to obey certain other royal mandates,[3] nevertheless the pope had instituted proceedings and issued sentences of excommunication against certain English bishops for executing

de notre roiaume Dengleterre et contre la forme del ordenance et accord par le Roy E. notre besaiel et les pieres grandz et communialtee de son roialme Dengleterre faitz en un son consail nadgaire a Westmonster tenuz': *Ordinances of the Privy Council*, ii. 181. The significance of the allusion to the 'ordinance' of Edward III will be considered below.

[1] 'Il semble a mesme notre consail qe la cause est meure espirituele et qen les dites lettres . . . nest pas contenuz aucune chose prejudiciele a nous ne a notre corone nencountre les loys estatutz ordenances ne custumes de notre roiaume desuditz': *ibid.* pp. 181 seq.

[2] See above, p. 175, n. 1.

[3] *Statutes*, ii. 84: 'notre seignour le Roy et toutz ses liges deivent de droit et soloient de tout temps pursuer en la Courte mesme notre seignour le Roi pur recovrer lour presentementz as Eglises prebendes et autres benefices de seinte Eglise as queux ils ount droit a presenter, la conisance de plee de quelle pursuite appartient soulement a Courte . . . le Roy . . . et qant juggement soit rendu en mesme en Courte sur tiel plee et pursuite, les Ercevesques Evesques et autres persones spirituels qount institucion de tiele benefice deinz lour jurisdiccion sont tenuz et ont fait execucion des tieux juggementz par mandement des Rois . . . qare autre lay persone ne post tiele execucion faire, et auxint sont tenuz de droit de faire execucion de plusours autres mandementz notre seignour le Roy.'

such mandates, to the destruction of the king's rights, of his laity, and of his whole realm. Moreover, it was currently reported that the pope intended to translate—even to places outside the realm—certain prelates whose counsel was needed by the king, and that without his knowledge or the consent of the prelates concerned. If this were suffered the statutes of the realm would be annulled, his wise counsellors withdrawn, and the wealth of the realm carried away, 'and thus the Crown of England, which has always been so free that it has had no earthly sovereign but has been immediately subject to God in all things touching the regality of the same Crown, would be subject to the Pope, and the laws and statutes of the realm would be defeated and annulled by him at his will'. The commons added that since the things thus attempted by the pope were manifestly prejudicial to the Crown and the king's immemorial rights, they and all the commons of the realm wished to uphold the king to the death in face of these and all other encroachments on his prerogative.[1] They asked the king to question each of the lords in parliament 'and all the estates of parliament' as to their opinion of the aforesaid matters and the support they would give the king in maintaining his rights. The temporal lords all expressed the same views and intentions as the commons. The lords spiritual who were present and the proctors of those absent, first protesting that they had no intention of asserting that the pope could not excommunicate bishops or translate prelates according to canon law,[2] replied severally that if execution were made of such processes as the commons had specified, if any of the king's lieges were excommunicated for the reason mentioned, or if execution were made of translations exactly like those described, it would be against the king and his Crown.[3] They further declared that they wished and ought to support the king loyally in the cases sub-

[1] Et disoient outre les Communes avantdites qe les dites choses ensi attemptez sount overtement encountre la corone notre seignour le Roi et sa regalie use et approve du temps du tous ses progenitours; par quoy ils et tous les lieges communes du mesme le Roialme veullent estere ovec notre dit seignour le Roy et sa dite corone et sa regalie en les cases avauntdites et en tous autres cases attemptes encountre luy sa corone et sa regalie en touts pointz a vivre et mourer': *ibid.* pp. 84 *seq.*

[2] 'Fesantz protestacions qil nest pas lour entencion de dire ne affermer qe . . . le Pape ne poet excomenger Evesques ne quil poet faire translacions des prelatz solone la ley de Seinte Eglise': *ibid.* p. 85.

[3] 'Si aucunes execucions des processes faitz en la Courte de Rome come devant soient faitz par ascuny, et censures de escomengementz soient faitz encountre ascun Evesque Dengleterre ou ascun autre liege du Roi purce qils ount fait execucion des tieux maundementz, et qe si aucuns execucions des tieux translacions soient faitz dascuns prelatz de mesme le Roialme queux seignours sount moult profitables et necessaires a . . . le Roi et a son Roiaume suisdit, ou qe ses sages lieges de son counseil saunz son assent et encountre sa volunte soient sustretz et esloignes hors du Roialme, sique lavoir et tresor du Roialme purreit estre destruit, qe ce est encountre le Roy et sa Corone sicome est continuz en la peticion avant nome': *ibid.*

mitted to them and all others in which his crown and prerogative were concerned.[1] Whereupon the king, 'with the assent aforesaid and at the prayer of his said commons', ordained and established penalties for certain offences in the terms already quoted.

Now the enacting part of the statute was evidently carelessly drafted; at several points its meaning is open to dispute; and single words or phrases must not be taken too strictly. It may be that when the framers of the act spoke of 'such' bulls or anything else prejudicial to the king 'as is aforesaid', they merely meant 'documents prejudicial to the king in the same kind of way as those indicated in the preamble', and so intended the act to apply to all documents that encroached on the rights of the Crown. But it is more natural to apply a stricter interpretation to the words *tieux* and *come devant est dit*. They need not have been inserted at all if the act was meant to cover every document prejudicial to the king. Moreover, they direct attention to the preamble. Now the preamble is clearly worded with some care. It deals with two specific questions, papal action against churchmen for executing certain royal mandates and the translation of prelates without their assent or that of the king. No other topic is mentioned. The lords spiritual, when asked for their opinion, drew some nice distinctions, and in their replies kept meticulously to the cases put forward by the commons.[2] It is most improbable that the king would claim their assent to the act, as he did, if it really went far beyond the matters submitted to them; and in view of the preamble it is natural to regard the words *tieux* and *come devant est dit* as referring precisely to documents indicated therein, those, that is to say, used by the pope in execution of his measures against the ecclesiastics specified and in carrying out arbitrary translations.

Apart from the actual wording of the statute there is much evidence in favour of the view that it was intended by those who passed it to serve a strictly limited purpose, and that it was long before it was regarded as a measure of much importance. In the first place it had the assent of the lords spiritual. Even if we did not possess their guarded statements in reply to the questions put to them at the instance of the commons, it would be wellnigh incredible that they should have agreed to a measure which warned the pope off the whole of the ground disputed between church and state. Neither in the statutes of provisors of 1351 and 1390, nor in the statute of *praemunire* of 1353, is the

[1] 'Les ditz seignours espirituels veullent et deivent estere ovesque le Roy . . . en ceux cases loialment en sustenance de sa Corone et en toux autres cases touchantz sa Corone et regalie come ils sount tenuz par lour ligeance': *Statutes*, ii. 85.

[2] It is true that they added a general promise to uphold the king's rights in all cases as they were bound by their allegiance; but this is merely common form and in any case of little value from men whose allegiance was double.

consent of the clergy explicitly claimed.[1] In the parliament of 1390 the archbishops made a solemn protest on behalf of the clergy against the new statute of provisors and that of 1351, declaring that they dissented from them in so far as they restricted the power of the pope or impaired ecclesiastical liberty, as the clergy had always dissented from such measures in times past.[2] Moreover, in 1397, when the commons gave the king permission to modify the statute of provisors, the archbishops, speaking in the name of all the lords spiritual, declared that they would oppose any arrangement which limited the pope's power or the liberty of the church.[3] Now the statute of 1390, though a substantial joint, was a less formidable meal than the 'great statute of praemunire'. Yet we are asked to believe that the clergy swallowed the camel whole, though four years later they solemnly declared that they would refuse the smallest gnat. If, however, the statute merely forbade certain specific things, which the lords spiritual had just acknowledged to be prejudicial to the Crown, their assent to the act would follow as a matter of course.

When, furthermore, one examines the attitude of the Crown and of parliament towards the pope at the time when the statute was passed, it seems unlikely that even the laymen concerned would just then have enacted an anti-papal measure more comprehensive than any of its predecessors. The statute of 1390 against provisors had excited much alarm at Rome, where on 4 February 1391 Boniface solemnly annulled it, together with the 'statute' of Carlisle and the statute of 1351.[4] Papal envoys had already been sent to press for the repeal of the new measure,[5] and in June 1391 there arrived in England the abbot of Nonantola, who on behalf of the pope asked for the withdrawal of the statutes of provisors and other anti-papal measures, including the statutes,

[1] According to itself, the statute of 1365 was enacted 'de lassentement et expresse volunte et concorde des Ducs, Contes, Barons, Nobles, et communes . . . et de toux altres qe la chose touche' (*Statutes*, i. 386). This hyperbolical assertion was, however, robbed of all significance by the prelates, who formally declared that they assented to nothing that might turn to the prejudice of their estate or dignity (*Rot. Parl.* ii. 285).

[2] 'Nolumus nec intendimus alicui Statuto in presenti Parliamento nuno noviter edito, nec antiquo pretenso innovato, quatenus Statuta huiusmodi, seu eorum aliquod, in restrictionem Potestatis Apostolice, aut in subversionem, enervationem, seu derogationem, Ecclesiastice Libertatis tendere dinoscuntur, quomodolibet consentire, set eisdem dissentire, reclamare, et contradicere . . . prout semper dissensimus, reclamavimus, et contradiximus temporibus retroactis': *ibid.* iii. 264.

[3] 'Coment ils ount fait profession, et sont jures a notre tres seint Piere le Pape, et a la Courte de Rome, et pur ceo, en cas qe aeune ordenance ou autre chose serra fait ou assentuz par le Roy, ou Seigneurs Temporels sur cest poair et auctorite de Parlement touchantes les Provisions del Court de Rome, qe soit en restriction del poair de l'Appostoil, ou derogation de la Liberte de Seint Eglise, ils ne veullent, ne pecnt, ne deyvent, a ce assentir n'accorder en nulle voie, einz les contredient et diassentont de leur part, en quanq qe a eux appartient': *ibid.* p. 341.

[4] *Calendar of Papal Letters*, iv. 277.

[5] *Cont. Polychron.* ix. 350.

as he called them, of *Quare impedit* and *Praemunire facias*. He was listened to politely; but the king brusquely refused to do away with the two writs, and said that as statutes were established in parliament, they could not be revoked without its consent. The next parliament, however, would be asked to consider the matter.[1] Accordingly one of the reasons officially given for the summons of parliament in the following November was the desirability of finding some compromise about provisors whereby the pope and the king might each have what pertained to him.[2] According to Walsingham, the king and John of Gaunt seemed disposed to give way to the pope; but the knights refused to agree to the repeal of the statute,[3] and the commons would do no more than allow the king, with the advice and assent of the lords, to relax the enforcement of the statute until the next parliament, when, as they expressly stated, they would be free if they wished to restore it to full vigour.[4]

Consequently, when parliament again met, in January 1393, it was officially announced that remedy touching the statute of provisors was to be considered, with a view to avoiding the disputes that might easily arise between the Crown and the papacy.[5] This time the commons were more tractable. They agreed that the king, with the consent of the lords and the council, might take the whole matter into his own hands, giving him power to modify the statute and to make ordinance respecting it. At the next parliament everything done was to be reported to the commons, that they might, if it pleased God, agree thereto.[6]

[1] *Cont. Polychron.* ix. 247 *seqq.*; Walsingham, *op. cit.* ii. 200 *seqq.*; *cf. Cal. of Papal Letters*, iv. 278, 279. It must be remembered that the statutes of 1353 and 1365 were not yet termed 'statutes of praemunire', and when the abbot spoke of the 'statute of praemunire facias' he meant the writ from which they afterwards derived their title.

[2] *Rot. Parl.* iii. 284. [3] Walsingham, ii. 203.

[4] 'Fait a remembrier touchant l'Estatut de Provisours, qe les Communes . . . s'assenteront en plein Parlement, qe notre dit Seigneur le Roi, par advys et assent des Seigneurs, purra faire tielle soefferance touchant le dit Estatut come lui semblera resonable et profitable tan q'al proschein Parlement, par issint qe le dit Estatut ne soit repellez en null article d'icelle. . . . Et en outre, qe les ditz Communes se purront desagreer a dit proschein Parlement a tielle soefferance pluis outre, et pleinement resorter al dit Estatut si lour semblera a faire, ove protestation qe cest assent, q'est une novellerie et n'ad mye este fait devant ces heures, ne soit trait en ensample n'en consequence en temps a venir': *Rot. Parl.* iii. 285.

[5] *Ibid.* p. 300.

[6] 'Fait a remembrier touchant l'Estatut des Provisours, Qe les Communes . . s'accorderent et assenterent en plein Parlement, Qe . . . le Roi, par bone deliberation et assent des Seigneurs et de son sage Conseill, preigne toute la matire a luy, et q'il eit plein poair et auctorite de modifier le dit Estatut, et ent ordeiner, par deliberation et assent sus dits, en manere come luy semblera meutz a l'honour de Dieu et de Seinte Eglise, et salvation de les droitz de sa Corone et de l'estat et profit de sa Terre: et de mettre en execution qan qe serra ensy ordeine. Et qe au proschein Parlement toutes les choses sus dites soient pleinement monstrez as ditz Communes, aufyn q'ils purront alors par bon avisement agreer, si Dieu plest, a ycelles': *ibid.* p. 301.

It seems impossible to ascertain what use the king made of the discretionary power bestowed on him at these two parliaments.[1] But it appears that he might practically have suspended the statute from November 1391 to January 1393, while after that date he was free to abrogate it altogether and to bargain with the pope for a concordat which parliament could not have criticized until it had been concluded. It is hard to believe that the commons, after making such a concession, should have sought to rob it of all effect by pressing for the enactment of a new measure which covered the whole of the ground affected by the statute of provisors and more besides. Equally unlikely is it that the king should have thrown away the valuable powers just granted him by assenting to such an act. If, however, the new statute was interpreted in the sense I have suggested, it was perfectly compatible with the resolution of the commons about provisions.[2]

[1] An examination of the *Cal. of Papal Letters* and the *Cal. of Pat. Rolls* shows that the king exercised with great moderation the authority entrusted to him, but does not reveal what principle he followed. It seems to have been commonly believed that after the parliament of 1391 the pope was allowed to dispose of benefices vacant in the curia; but I have found no confirmation of this in official records (*Mon. Eveshamn.* p. 123; cf. *Cal. of Pat. Rolls*, 1391–6, p. 33, and *Cont. Polychron.* ix. 243, which ascribes this concession to the autumn parliament of 1390).

[2] The difficulty raised by the proceedings of the parliament of 1393 was noticed by Lingard, who, after summarizing the contents of the statute, writes: 'There is reason to believe that when this bill was discussed in the house of lords, it met with considerable opposition. It was at least withdrawn by the commons, who agreed that the king should refer the whole matter to his council, and have full power to make such alterations and ordinances as he might think fit, and to carry them, when made, into execution. Though they expressed a hope that, when it was thus amended, they should assent to it at the next parliament, it does not appear to have ever been laid before them again; but to have been occasionally acted upon and occasionally modified, as suited the royal convenience.' In a foot-note Lingard quotes the terms of the commons' concession about provisors, and adds that four years later 'another memorandum to the same import is inserted in the rolls:-and it is added, that immediately afterwards the prelates protested', as I have narrated above. 'Hence', proceeds Lingard, 'I think it plain that this statute was never properly passed in parliament, and on that account does not appear in the rolls' (*History of England*, 5th ed., iii. 347 *seq.*).

The passages quoted bristle with anachronisms, and Lingard's assumption that the concession of the commons regarding the statute of provisors referred to a 'bill' which ultimately became the statute of *praemunire*, is wholly without warrant. Nor is there any reason to suppose that the statute met with opposition. As for its not being 'properly passed', it is difficult to say what constituted the 'proper passage' of a legislative measure in the fourteenth century: at all events, this statute stands written in a contemporary hand in its proper place in the statute roll. Lingard's statement that the statute 'does not appear' in the rolls of parliament requires qualification, for the roll of the Winchester parliament contains a formal record of the answers of the prelates to the questions submitted to them, and this embodies a great part of the preamble (*Rot. Parl.* iii. 304). It is, however, true that there is no trace of the operative clauses. But the absence of a petition for their enactment is of no great moment, and it may still be true that the whole statute was based on 'the prayer' of the commons. The contents of the preamble suggest that the matters under consideration were brought to the notice of the commons by the Crown, and in that case there would doubtless be 'conversations' both in parliament and in the commons'

That this interpretation is correct becomes still more likely when we examine the effect of the statute, whether on contemporary opinion or on the relations between England and the papacy. No chronicler living at the time gives an accurate account of its contents. Neither the St. Albans chroniclers,[1] nor the Continuator of Knighton, nor the 'Monk of Evesham' say anything of anti-papal legislation under the year 1393. The Westminster Continuator of the Polychronicon states that the Winchester parliament confirmed the statute of provisors,[2] an assertion which, on any view of its proceedings, is incorrect. In fact, of the annalists with any claim to be regarded as contemporary authorities, only the Continuator of the *Eulogium Historiarum* and the author of the work called by Mr. Kingsford *A Southern Chronicle* suggest that new and important legislation affecting the papacy was passed at this parliament. Probably, too, these should be regarded as but a single witness, seeing that for the reign of Richard II they used a common source; and since both confuse the statute of 1393 with the statute of provisors of 1390, in which year they evidently suppose the Winchester parliament to have been held,[3] their testimony is not of much value. There is, it is true, what seems at first sight to be an allusion to the statute of 1393 in a manifesto containing a number of charges against Henry IV and probably composed in 1407.[4] Henry is denounced for having ratified and kept in force an anti-papal statute 'promulgated and renewed' at a parliament at Winchester. But an examination of the evils said to have been wrought by this measure shows that the author was thinking of

own chamber, at which proposals and requests might be made to the king's representatives by word of mouth. In any event, there is no reason whatever to suppose that the commons did not approve of what was done.

Lingard, however, deserves credit for his reluctance to believe that in one and the same parliament the commons virtually sanctioned the abrogation of the statute of provisors and initiated the most drastic of the anti-papal laws passed in medieval England, and for his recognition of the incompatibility between the assent of the prelates to such a measure and their protest against limitations of papal authority four years later. But all the real difficulties that perplexed him can be satisfactorily met if the statute be interpreted in the way I have suggested.

[1] Walsingham, it should be remembered, showed great interest in the statute of provisors and in the attempts of the pope to secure its repeal.

[2] *Cont. Polychron.* ix. 279.

[3] *Eulog. Hist.* (Rolls Ser.), iii. 368; Brit. Mus. Add. MS. 11714, fo. 11v. On the relation between these two authorities, see Kingsford, *English Historical Literature in the Fifteenth Century*, pp. 28 *seqq.*

[4] 'It has generally been held that the document was drawn up by Archbishop Scrope in justification of his rebellion; but Dr. J. H. Wylie argued that it was composed after the archbishop's death and circulated in 1407 in preparation for the earl of Northumberland's rising in the following year, and that it was not 'the composition of a practical politician at all, but an elaborate outburst of academical indignation compiled by some disappointed student' (*History of England under Henry IV*, ii. 214 *seq.*).

the statute of provisors and that the parliament he had in mind was really that of 1390.[1] It may be concluded that while it was remembered that the parliament of 1393 had dealt with the relations of England and the papacy, the general public, clergy and laity alike, did not ascribe to it any legislation as severe and comprehensive as the statute of *praemunire* was afterwards supposed to be.

Even greater is the indifference of official records to the 'great statute of praemunire'. It duly appears on the statute roll of 16 Richard II. It forms the subject of a petition of the archbishops and bishops in 1439.[2] Between these dates I have not found in official documents any mention of the statute or, except perhaps in a record of 1434, any evidence of its existence.

It is notoriously dangerous to base any conclusion on an argument from silence. Nevertheless, the absence from official documents, English or papal, of all apparent allusion to the statute for more than forty years after it was passed does seem to

[1] 'Idem dominus Henricus . . . quoddam statutum nefandissimum promulgatum et renovatum in Parliamento apud Wintoniam anno Domini Regis [*locuna in text*] scienter approbat, ratificat et sustinet, nec aliud remedium quam illud ordinat vel opponit: quod quidem statutum est directe contra Curiam Romanam, eius potestatem ac principatum a Domino nostro Iesu Christo, Beato Petro, eiusque successoribus Romanis Pontificibus traditam et collatam; quibus omnium beneficiorum Ecclesiasticorum tam superiorum quam inferiorum plena et libera dispositio, ordinatio et collatio . . . deberet ut noscitur pertinere. Quod statutum nefandum est causa efficiens multorum scelerum et peccaminum. . . . Quia plures Episcopi, Abbates, Priores, et Prelati . . . vacantia beneficia conferunt iuvenibus et illiteratis et indignis personis. . . . Et vix reperitur aliquis Praelatus taliter Beneficium conferens, quin ex conventione ac pacto vult habere singulis annis tertiam vel dimidiam partem Beneficii sic collati. Et sic his diebus non promovent aliquos, nisi suos filios spurios et cognatos, secum in peccatis enormibus laborantes, et commensales. Ita quod per istud statutum destruitur Clerus Universitatum. Quia Milites et Armigeri, Mercatores et tota regni communitas potius eligunt filios suos et cognatos apprenticios facere vel constituere in aliqua arte temporali vel seculari, quam ad aliquam Universitatem pro Clericis fiendis mittere': Wharton, *Anglia Sacra*, ii. 366 *seq.*

The writer evidently did not know the date of the parliament to which he alludes; he left a blank space for it, but never filled it in. There is no record of any anti-papal statute having been 'promulgatum et renovatum' in the parliament of 1393; on the other hand, if we take *promulgatum* in the sense of 'recited' the phrase gives a fairly accurate impression of what happened to the statute of provisors in 1390. The original statute, that of 1351, was recited and declared to be in force, its scope being somewhat extended and new penalties being prescribed for its infringement. The effect of the statute of provisors on the universities was a frequent cause of complaint during the reigns of Henry IV and Henry V (cf. Wilkins, *Concilia*, iii. 241 *seqq.*; *Chron. Adae de Usk*, p. 60; *Rot. Parl.* iv. 81). In 1403 the king suspended the statute in favour of graduates of the universities (Wilkins, iii. 275 *seqq.*), but apparently this concession was withdrawn in 1407, when it was enacted that the statutes against provisors should be strictly observed, notwithstanding any relaxation of them which the king had been authorised to make (*Statutes*, ii. 161). It was perhaps of this that the writer of the tract was thinking when he spoke of the king as having 'ratified' the obnoxious statute. There is no record of Henry's having ratified or having in any way noticed the statute of 1393.

[2] Wilkins, iii. 534.

me fatal to the notion that it was intended and understood to be a measure of the first importance, protecting against ecclesiastical intrusion the whole field of jurisdiction claimed by the Crown. It is not as if the anti-papal legislation of the period had been a dead letter. The statute of provisors meets one at every turn in the Rolls of Parliament and in the Patent Rolls; the papal registers, in spite of the pope's attempts to ignore it, betray its effectiveness; and from time to time it was enforced with much vigour.[1] The statutes of *praemunire* of 1353 and 1365 were employed as need arose. There is no greater mistake than to suppose, as some modern historians have done, that the weapons of the Crown against the papacy were allowed to rust unused. This being so, if the statute of 1393 applied to all encroachments of the papacy on the temporal sphere, one would expect it to appear very frequently in the records of the time. A pardon for a breach of the statute of 1390 would be of no avail unless the breach of the statute of 1393 were pardoned too. A licence to accept a papal provision 'notwithstanding the statute of 13 Richard II' would not protect the provisor against the statute of 16 Richard II. Nevertheless, in the numerous pardons for accepting and licences to accept provisions which are entered in the patent rolls of the twenty years following its enactment it is not once mentioned, while the act of 1390 is repeatedly named as if it were the only one that mattered.[2] Moreover, when Englishmen procured from Rome bulls prejudicial to the Crown, why should laws of Edward III be made the ground of the proceedings taken against them if a more stringent statute of Richard II was equally suited to the case? But when in 1399 John Bastard, clerk, was pardoned for failing to obey a writ of *praemunire facias*, his offence of suing divers processes in the Roman court was described as a breach of a statute of Edward III.[3] When in 1415, as we have seen, a writ of *praemunire* issued against Roger Lansell, it was on the ground that a citation he had procured in the court of Rome was contrary to an ordinance of the same king.[4] In 1427 what was evidently a similar offence was stigmatized in similar terms.[5] And in other cases of unlawful

[1] The effect of the statutes of provisors has never been properly investigated. But even a somewhat hasty examination of the calendars of papal registers shows that, at various times, especially after the council of Constance, the control of the pope over English preferment became very slight.

[2] The statute of 1390 included that of 1351. After 1390 there is little trace of the statute of 1365. Though not formally repealed, it was, as regards papal provisions, superseded by the later act.

[3] *Cal. of Pat. Rolls*, 1396–9, p. 544.

[4] *Supra*, p. 177. The terms of the reference suggest that the act of 1353 was meant. It was confirmed in 1365, the statute of 1365 being supplementary to it.

[5] Rot. Pat., 5 Hen. VI, fo. 1, m. 3. The abridgement in *Cal. of Pat. Rolls*, 1422–9, p. 400, mentions the 'statute of praemunire'. The original merely refers to an offence

recourse to the Roman court, it is often evident, even when there is no allusion to any statute, that the proceedings against the offenders are based on the earlier statutes of *praemunire* and not on the act of 1393.[1]

Assuming that the statute of 1393 was an all-sufficient safeguard against papal encroachments, modern writers have often given the impression that it marked the end of the anti-papal activities of medieval parliaments. This, however, was far from being the case. Some of the parliaments of Henry IV show as much jealousy of the authority of the pope as any of their predecessors. Nor were they merely concerned with the enforcement of existing laws. Much of their attention was given to grievances against which, as they evidently supposed, no adequate provision had as yet been made. Thus in 1401 it was complained that the Cistercians had obtained bulls granting them certain exemptions from the payment of tithes, to the prejudice of the rights of the king and other patrons of ecclesiastical benefices. Now here, if the statute of 1393 covered all papal bulls prejudicial to the Crown, was surely a case which fell within its scope. The petition indeed asked that any attempt to execute the bull should be punished by loss of the king's protection and forfeiture, the very punishments imposed on offenders against the statute of 1393; but it made no allusion to that measure.[2] What is more remarkable, the statute which was the outcome of this petition, though it directed that all who attempted to execute such bulls or procured any in future should be proceeded against by writ of *praemunire facias*, went on to ordain that they should incur the penalties prescribed, not in the statute of 1393, but in the statute of provisors of 1390.[3] This was a singular arrangement. For that statute had been very carefully drawn up to deal with the particular question of papal provisions; a number of different penalties, appropriate to different classes of offenders, are enumerated in it; and which of these were to be inflicted on the guilty Cistercians and others in like case is nowhere specified. The statute of 1393, if not applicable to the case, might more reasonably have been extended to meet it. But apparently no one thought of its existence.

'contra formam ordinationis et concordie in parliamento domini Edwardi nuper regis Anglie progenitoris nostri apud Westmonasterium nuper tento editarum'. Doubtless one of the 'statutes of praemunire' is meant, but not that of 1393, to which the entry in the calendar would naturally be taken to allude.

[1] See, for example, *Cal. of Pat. Rolls*, 1405–8, pp. 479 *seq.*; 1408–13, pp. 27, 263. A good example appears in Rot. Pat., 20 Ric. II, fo. 3, m. 34, another letter which has had its meaning distorted in the calendar (*Cal. of Pat. Rolls*, 1396–9, p. 106: pardon of the abbot of Dore, whose sentence was not for procuring unlawful citations at Rome, but for failing to respond to a writ of *praemunire facias*).

[2] *Rot. Parl.* iii. 464 *seq.* The source of the petition is not stated.

[3] *Statutes*, ii. 121 *seq.*

It is probable that the terms of the statute in restraint of the Cistercians had been suggested by the commons. At any rate, the statute of 1390 was evidently regarded by them as an instrument that could be adapted to the reform of many kinds of ecclesiastical abuses. In the same parliament they asked for the imposition of the pains ordained 'against provisors in the court of Rome' on those who accepted incompatible benefices, obtained papal dispensation for non-residence, or accepted new appropriations of churches.[1] Next year they wanted to extend the same penalties to those who put their benefices to farm and dwelt elsewhere as stipendiary chaplains, and to the principal officers of any order of friars which should accept as a recruit any one under twenty-one years of age.[2] None of the abuses of which the commons complained in these petitions had as yet been the object of legislation by Crown or parliament, and it is strange that the commons, with a free hand, should have wished to bring them under the act of 1390, if there was at their service a measure which was not only newer and less complicated but also of much wider range.

In 1406 the commons presented a long petition about provisors who, having been prevented by the statute against them from securing possession of the benefices they claimed, took proceedings in the curia against their successful rivals. This was an offence against more than one statute, and the petition was needlessly diffuse; but it is of interest as showing that the commons regarded the act of 1390 as the most recent and important measure bearing on the question.[3] Again, in 1407 there was a petition against provisors resident at Rome who secured at the papal court sentences against English incumbents before these even knew that proceedings were being taken against them. The commons asked that no ordinary should admit any clerk to a benefice the previous incumbent of which had been deprived by ecclesiastical authority without being cited within the realm. Any ordinary acting to the contrary, and any presentee pursuing his claim to such a benefice, should, they suggested, incur the penalties ordained in the statute of 1390, the procedure to be followed being that prescribed in the statute of 1353.[4] The petition is of exceptional interest, and raises many points of common, statute, and canon law. The commons asserted that the abuse could only be remedied by fresh legislation; but, even if the statutes of provisors were not sufficient, it seems to me that the statute of 1393, as afterwards interpreted, would have been an ample safeguard. The commons, however, were plainly trying to frustrate a subtle and dangerous attempt to circumvent

[1] *Rot. Parl.* iii. 468.
[2] *Ibid.* p. 595.
[3] *Ibid.* p. 591.
[4] *Ibid.* p. 614.

the legislation against provisors; and in their eyes, perhaps, even 'the great statute of praemunire' would have left one or two points unguarded. But in that case one would still have expected them to make use of such a measure, which would have furnished at once a suitable procedure and adequate punishments. Instead, they had recourse to two earlier measures, and would apparently have left it to the courts to decide which of the numerous penalties provided in the statute of 1390 was to be used against the offenders they had in view.[1] Once again the act of 1393 is ignored—unaccountably ignored if it was really the climax of the anti-papal legislation of the middle ages.

It appears then that for many years the English parliament and the English courts of law took no notice of the statute. And, what is no less remarkable, there seems to be no evidence that it called forth any protest from Rome. The statute, it must be remembered, was passed at a time when Boniface IX was much exercised about the anti-papal legislation in England. In 1391 he had solemnly denounced and declared void the so-called statute of Carlisle, the statute of 1351, and the new one of 1390, and he had been trying hard to secure their repeal. But I have found nothing to show that he displayed any concern about the statute of 1393. In 1394, it is true, Bartholomew of Novara, a canonist of some repute, was sent by the pope to England to press for the annulment of certain statutes lately made there against the pope, the Roman church, and ecclesiastical liberty.[2] The use of the plural *statuta* might be thought to indicate that the pope had in mind the acts of 1390 and 1393. But in papal communications on this topic *statutum* is often used in its non-technical sense of something ordered or decreed. In 1391 the abbot of Nonantola spoke of the 'statutes' of *Quare impedit* and *Praemunire facias*, and moreover used the plural when referring to the act of 1390.[3] Further, when Bartholomew stated his errand before the king's council, that body reported to Richard that he had explained how 'the statute lately made in

[1] The petition is not always as explicit as one could wish. I have, however, tried to take into account all possible interpretations of obscure passages. To discuss the relation of all the anti-papal statutes to the abuse of which the petition complains would necessitate a long digression. I have, therefore, contented myself with stating the rather inconclusive results to which, in my opinion, such a discussion would lead. The king refused the petition, and promised that the council would do justice to aggrieved incumbents.

[2] *Cal. of Papal Letters*, iv. 47.

[3] *Cont. Polychr.* ix. 230 *seq.*; Walsingham, ii. 200. The Continuator of the Polychronicon gives a verbatim report of the abbot's speech. That it is genuine is proved not only by internal evidence, but also by the abridged version given by Walsingham, who frequently attributes to the abbot whole sentences reported by the Continuator. It looks as if the abbot had distributed copies of his speech among the journalists of the day.

your parliament' was very detrimental to the estate of the apostolic see and the liberty of the church, and had advocated its repeal.[1] Evidently the council thought that only one statute was in question. If that was so, it is probable that Bartholomew of Novara was merely renewing the attempt of the abbot of Nonantola to obtain the repeal of the statute of provisors and the abolition of the obnoxious writs. This hypothesis is strengthened by the terms of the commission to Peter bishop of Dax, who in 1398 was sent to England with power to grant absolution to the English people from the penalties incurred under the pope's annulment of all the statutes and ordinances made by Richard II in parliament at Westminster against ecclesiastical liberty and the Roman church, after such annulment should have taken place in England.[2] The parliament of 1393 was of course held not at Westminster but at Winchester; and while it would be rash to make much of this point, it is strange, if the pope had ever formally denounced the statute of 1393, that care was not taken to have it precisely described in the bishop's commission.[3] At all events, the St. Albans chronicles say that the bishop came to urge the withdrawal of the statute against provisors, the writ of *Quare impedit*, and many such things whereby the curia was vexed.[4] And the outcome of the bishop's visit, as far as the objectionable statutes were concerned, was merely a temporary concordat regarding the statute of provisors, whereby the pope was to be allowed to fill a limited number of English benefices.[5] It may at least be said that the transactions just noticed might all have taken place if the statute of 1393 had never been passed.

It was not until after the council of Constance that the anti-papal laws were again the subject of serious remonstrance from Rome. Then, however, Martin V addressed himself to the problem with vigour. It has commonly been assumed that his angry protests were directed against the statutes of provisors and *praemunire* alike; but I have found no evidence that either Martin V or Eugenius IV, who continued his efforts, was concerned about any of the so-called statutes of *praemunire*. As a rule, the popes' letters on the subject are not very specific. The target of their wrath is usually alluded to as that 'abominable' or 'detestable' or 'execrable statute against ecclesiastical

[1] *Ord. Priv. Council*, i. 53 *seq.* The word 'lately' (*nadgaires* in the council's report) proves nothing. In 1415 a council of Edward III was spoken of as *nadgaire tenuz* (*supra*, p. 177, n. 2).

[2] *Cal. of Papal Letters*, v. 111.

[3] In the formal act recording the pope's denunciation of the statutes of provisors in 1391, they are cited with meticulous accuracy (*ibid.* iv. 277).

[4] Walsingham, ii. 228; *Ann. Ric. II*, p. 228.

[5] Wilkins, iii. 236 *seq.*

liberty '.[1] The use of the singular *statutum*, whether the word be given its technical or its general meaning, suggests that only one measure was in debate. English documents relating to the matter refer only to one statute,[2] which one or two of them call the statute of provisors,[3] and it was merely for the repeal of that measure that Chichele pleaded when at the bidding of Martin V he put the pope's case before the commons during the parliament of 1428.[4] Now if only one statute was in question, there can be no doubt as to which it was. On the rare occasions when the pope condescends to paraphrase passages in the offensive legislation, he seems always to be using the text of the statute of 1390 (in which that of 1351 is recited),[5] and the one verbatim quotation that I have found in a papal letter is drawn from that source.[6] The archbishop of York,[7] in a letter written soon after the close of the parliament of 1428, speaks of Chichele's efforts as directed towards gaining for the pope freedom to dispose of benefices in clerical patronage, and in 1435 Eugenius IV identified the measure to which his predecessor had objected with a statute which hindered the pope from collating to English benefices.[8] All interested parties, in fact, seem to assume that the papal claim to appoint to English benefices was the only question at issue throughout the prolonged negotiations. It is hard, in the face of this, to believe that the statute of 1393 came into the

[1] e.g. 'illud abominabile statutum' (Wilkins, iii. 479), 'pro abolitione illius detestabilis statuti contra libertatem ecclesiasticam editi' (*ibid.*), 'execrabile illud statutum contra libertatem ecclesiasticam editum' (*ibid.* p. 473).

[2] So, for example, in an official reply, dated October 1419, to one of the pope's demands for redress (*Foedera* ix. 808), and in a letter from Archbishop Chichele to William Swan at the curia, dated 27 February 1428 (MS. Cott., Cleop. C. iv, fo. 174 b).

[3] e.g. a letter, dated 16 January 1428, from the bishop of Bath and Wells (John Stafford) to Swan: 'In instanti parliamento . . . archiepiscopi . . . ac singuli alii episcopi et prelati pro abolitione illius statuti editi contra provisores diligentissime laborarunt' (*ibid.* fo. 173 b).

[4] Wilkins, iii. 484.

[5] Most of Martin's allusions to details occur in his letter to Henry VI dated 1 December 1428 (Wilkins, iii. 480 *seqq.*), and in that to Chichele dated 9 December 1426 (*ibid.* 482 *seq.*; *Cal. of Papal Letters*, vii. 24 *seq.*).

[6] This occurs in the letter to Henry VI just cited: 'Ferentes aut destinantes a sede apostolica excommunicationis processum contra aliquem de regno contra ipsius statuti dispositionem . . . ut ipsius statuti utamur verbis, poenam vitae ac membrorum incurrunt' (Wilkins, iii. 481). Cf. *Statutes*, ii. 74: 'Si aucun port ou envoie deinz le roialme . . . aucun somonces, sentences, ou excomengements envers aucun persone . . . a cause de la mocion . . . feisance assent ou execucion du dit estatut des provisours . . . encourge la peyne de vie et de membre.'

[7] Dated 28 March 1428, and addressed to the bishop of Dax, who was apparently at Rome: 'Desideria sanctissimi domini nostri quo ad optatam disponendi libertatem de beneficiis videlicet ecclesiasticis hoc in Regno vacaturis saltim [*sic*] de patronatu personarum ecclesiasticarum existentibus omni cum diligencia pertractata fuere' (MS. Cott., Cleop. C. iv, fo. 169).

[8] Raynaldus, *Annales* (ed. Mansi, 1747–56), xxviii. 199; *Cal. of Papal Letters*, viii. 216 *seqq.*

dispute at all: on the interpretation that I have suggested it only touched the fringe of the question, while if given a wider significance it would have raised a much broader issue, some allusion to which must have appeared in the correspondence that was exchanged. Furthermore, if the statute of 1393 covered all encroachments on temporal affairs, the repeal of the statute of 1390 would have availed the pope nothing; while, on the other hand, the repeal of the statute of 1393 would have left that of 1390 in force. To secure liberty of conferring English benefices the pope would have been obliged to get rid of both measures. Yet, as we have seen, it was for the repeal of but one statute that Chichele pleaded before the commons, and his conduct on that occasion was considered by observers to be proof of zeal in the pope's cause, and satisfied even Martin V himself.[1]

There seems then good reason to believe that the popes of the forty years after the passing of the statute of 1393 were little if at all perturbed by it, and there is apparently no evidence that they took any formal notice of it. Thus the wording of the act itself, the circumstances in which it was passed, and the general disregard of it for so many years point alike to the conclusion that it was originally a measure of but limited purpose, intended by those who framed it to protect ecclesiastics from punishment for executing the sentences of secular courts and to prevent arbitrary translations of bishops. But why, it may be asked, was such an act required? Did not existing statutes provide adequate safeguards against such exercise of papal authority?

The statute of 1390 ordained that if any person brought or sent into the realm summonses, sentences, or excommunications directed against any one for proposing, assenting to, or executing

[1] *Cal. of Papal Letters*, viii. 64. It has sometimes been argued that, as the anti-papal legislation had not been enforced, Martin V was not seriously concerned about it, and merely used it as a stick for beating Chichele, who (according to this view) had been encouraging the English church in a display of independence somewhat alarming to the papacy. But, whatever motives led the pope to make his attack on Chichele—which, it should be noted, began in 1423 on another issue (Raynaldus, *Annales*, xxvii. 573; *Cal. of Papal Letters*, vii. 12)—it is clear from the papal registers that throughout his pontificate the statute of provisors was operating effectively, and, with the exception of bishoprics, very few English benefices were filled by the pope. Martin's attempt to secure some redress began in 1419; it was resumed at intervals during the next nine years, and renewed by Eugenius IV in 1435 (*Foedera*, ix. 806; Raynaldus, *Annales*, xxvii. 538, 556; xxviii. 20; Wilkins, iii. 471 *seqq.*; *Cal. of Papal Letters*, viii. 216 *seqq.*, 263). That he was in earnest is shown by the mere fact that he addressed himself mainly to the king; it was not till late in 1426 that he sought to stimulate Chichele's activity in the cause. Moreover, Eugenius IV seems to have had no suspicion that when Chichele was reconciled to the Holy See, the incident was really closed. One gathers, not merely from official documents but from informal correspondence preserved in William Swan's letter-book, that Martin's efforts were taken quite seriously both at Rome and in England. It is, therefore, important to notice the precise terms in which the papal demands were urged.

the statute, he should be arrested and imprisoned, undergo forfeiture of lands and goods, and incur the pain of life and member. If, then, a secular court had given judgement in an action brought under the statute of provisors, any one bringing into the country a bull excommunicating a churchman for carrying out the sentence would presumably have been liable to the penalties recited. In this instance the statute of 1393 would have been superfluous. But the clause just cited could not be applied unless the statute of 1390 had been involved, and most of the sentences which the clergy were called upon to execute would have nothing to do with the statute. For one thing, neither this act, nor that of 1351, which it confirmed, referred to any benefices but those in clerical patronage.[1] The impetration at the court of Rome of any benefice whatever was indeed an offence under the statute of 1365, but that measure was easy to evade and made but perfunctory provision against the use of papal authority to defeat it.[2] Lay patrons, of course, did not need statutes of provisors, for they had at their service such writs as *quare impedit*, *quare non permittit*, *quare non admisit*, not to mention the newfangled one of *praemunire facias*, which could be obtained on suggestion filed before the king's council.[3] These resources they were expected to use in suits against papal provisors, as well as in the much more numerous suits which did not concern the pope at all. Now for many years the spiritual courts in England had tacitly waived their claim to determine suits regarding patronage, and the papacy had seemingly acquiesced. The secular courts decided who was the rightful patron of any benefice in dispute, and the ecclesiastic with authority to institute admitted his presentee as a matter of course, unless it could be proved that he was personally unfit. But suppose the pope determined to exercise that jurisdiction over patronage which the church had never formally surrendered, and threatened with excommunication any prelate who acted in pursuance of the sentence of a lay court in a suit concerning patronage. A writ of *quare non admisit* would enforce the claims of the common law; but the wretched churchman might prefer ruin or even imminent death to the risk of eventual damnation, and it might prove impossible to secure the canonical institution of the presentee. If the church might not say who was patron, she would not allow any one to be parson.

One gathers from the preamble to the statute of 1393 that

[1] It is true that the statute of 1390 enacts that the statute of 1351 shall hold good of all ecclesiastical benefices whatsoever, and that this reads as though it were to be extended to benefices in lay patronage (*Statutes*, ii. 73). But an examination of the text of the earlier statute and of other passages in the later one shows that this cannot have been intended. [2] *Ibid.* i. 386.

[3] Palgrave, *The Original Authority of the King's Council*, p. 40.

this was the attitude of Boniface IX. Alarmed by the statute of 1390, he had resolved to reopen the whole question of jurisdiction in cases concerning patronage. Besides demanding the repeal of the statutes of provisors, the abbot of Nonantola had asked for the abolition of what he called the statutes of *quare impedit* and *praemunire facias*, and had made vague threats as to what the pope might do if his requests were denied.[1] The abolition of the two writs had been curtly refused,[2] and the pope had got little satisfaction in regard to the statutes. It was probably in retaliation that he did the things complained of by the commons in 1393. Their petition certainly suggests that he had acted on his own initiative. The conventional pretence, usually kept up in anti-papal statutes, that English suitors at Rome were mainly to blame for all abuses and grievances, is altogether dropped. It is also to be remarked that the statute of provisors is nowhere mentioned in the petition; and the allusion to the immemorial authority of the king's court in relation to patronage and to the right of the king's lieges to sue there gives the impression that the commons had in mind, not the anti-papal statutes—all fairly recent—but the venerable actions at common law which were the natural weapons of lay patrons and which even churchmen often employed in cases where the authority of the pope was not directly at issue.[3]

Now if the processes and sentences complained of by the commons had been the outcome of litigation initiated at Rome by an Englishman, he might have been proceeded against under the statute of 1353;[4] but if they were the result of a petition for papal favour and support, still more if they sprang from the pope's own initiative, there was, so far as I am aware, no statute under which any one could be punished. It was even considered doubtful whether bulls communicating such proceedings were in all cases 'prejudicial to the Crown'. Hence the careful consultation of the estates in parliament. Of course the pope could not be prevented from taking such measures against English ecclesiastics; all that could be done was to forbid any one to ask him to do so, and to try to keep the victims in ignorance of their

[1] *Cont. Polychr.* ix. 251; Walsingham, ii. 251. [2] *Cont. Polychr.* ix. 256 *seq.*

[3] Compare the passage quoted above, p. 178, n. 3, and a passage in the king's reply to the abbot of Nonantola: 'Ex eo namque quod per dictum nuncium petebatur statuta "Quare impedit" et "Praemunire facias", ut praemittitur, aboleri, admirationis causa consurgit maxime cum ab aliis summis pontificibus nunquam fuerunt haec petita, quoniam constat illa statuta etiam inter laicos patronos regni nostri subditos super iure patronatus eorum et aliter legem tribuere ab antiquissimis temporibus observatam' (*Cont. Polychr.* ix. 256 *seq.*).

[4] He would come within the scope of this act as one of those 'qui suent en autri Court a deffaire ou empescher les juggements renduz en la Court le Roi'. But I do not think that the English courts would at this period have construed this clause so as to bring within its meaning petitions for papal grace and favour.

fate. So very severe penalties were prescribed for any one who procured, pursued, brought into the realm, or published, documents of any kind instituting or announcing proceedings against ecclesiastics for executing judgements of English secular courts.

The question of arbitrary translation was perhaps still more perplexing. None of the statutes of provisors mentions translations. It was generally recognized that only the pope could translate bishops,[1] and no one wanted to stop translations altogether. The statute of 1351, however, laid it down that episcopal elections were to be free, and if it had been enforced in this particular, the pope would have been permitted to translate a bishop to another English see only at the request of its chapter. But what if the pope translated an English bishop to a see *in partibus infidelium* or *schismaticorum*?[2] The king might forbid him to leave the realm, but more he could not do. The bishop could not retain his English see, and if he did not try to obey the pope's command, he might incur the gravest spiritual penalties. Even in the case of translations from one English see to another, the king's powers, as the law then stood, were of little avail against such a policy as Boniface was said to be contemplating. He could keep a translated bishop out of his new see; he could proceed against him for a breach of the statute of provisors: but he could not keep him in his old see or save him from the spiritual dangers of offending the pope. The petition of the commons dwells entirely on the negative aspect of translation. It was a means whereby the pope might deprive the king of his counsellors and also (though this is not expressly mentioned) deprive his counsellors of salaries which were no burden on the treasury. The commons limit their complaint to translations made without the consent of either the king or the prelates affected, and if Boniface really had the intentions ascribed to him, it is clear that his motives were political and highly improbable that he was prompted by any Englishman. There seems to have been no means of preventing the pope from doing what he pleased in the matter. The only hope of defeating him lay in keeping translated prelates in ignorance of what had befallen them. This the statute tried to do, but there was obviously little chance of its succeeding.

Five years afterwards, indeed, Richard II was consulting the judges as to what he could do in defence of royal rights threatened by a series of translations then being made, and asking the clergy whether the pope might lawfully make translations at his will and if there were any justifiable method of preventing his doing

[1] On this see Stubbs, *Const. Hist.* iii. 316.

[2] This had, of course, recently been done at the instance of the lords appellant, who prevailed on Urban VI to translate Archbishop Neville from York to St. Andrews.

so.[1] Most of the recent translations in England seem, it is true, to have had the consent of either the king or the bishop concerned, if not of both; but one—that of John Buckingham from Lincoln to Coventry and Lichfield—was apparently made contrary to the wishes of both Richard and Buckingham himself, and therefore fell clearly within the scope of the statute of 1393. Yet there is no indication that any appeal was made to the statute; the Crown recognized the translation of Buckingham as valid,[2] though the bishop himself is said to have refused his new see;[3] and Richard was apparently at a loss how to prevent the pope from creating vacancies in English sees as he liked.[4] In fact, if men could be found who were ready to risk the penalties ordained in the statute and introduce into the country bulls notifying arbitrary translations, the king had no effective remedy for the consequent inconvenience to the English church and himself, unless he were daring enough to deny the pope's right to exercise a prerogative hitherto recognized on all hands as spiritual, and strong enough to coerce the clergy into compliance with his policy. Neither condition was fulfilled until the days of Henry VIII.

The truth probably is that the enacting part of the statute was not regarded very seriously. It was badly drafted. It contains a glaring anacoluthon; the passage prescribing penalties and procedure reads like the rough notes of a clerk; and it abounds with words and phrases of doubtful import. In sharp contrast is the long preamble, obviously drawn up with care. The form of it is singular, and creates the impression that it was intended primarily to impress the pope with the unanimity of the English nation in opposition to the designs imputed to him. Probably, in fact, it should be looked upon as a political manifesto rather than as part of a measure of legislation.[5] Nor did it fail of

[1] *Ord. Priv. Council*, i. 80; *Ann. Ric. II*, 226 *seq.*; Walsingham, ii. 228.

[2] *Cal. of Pat. Rolls*, 1396–9, p. 383.

[3] *Ann. Ric. II*, p. 226; Walsingham, *loc. cit.* The St. Albans writers say that the bishop, after refusing Coventry and Lichfield, retired to Canterbury, where he ended his days as a monk. It is likely enough that Buckingham, an old man, did not wish to move from Lincoln to a poorer see and a less orderly diocese; but the news of his translation cannot have reached him more than a few days before his death (Eubel, *Hierarchia Medii Aevi*, i. 216, 242, 319), and five weeks after that event the pope had not heard of his refusal of Coventry and Lichfield (*Cal. of Papal Letters*, v. 167). The story in the chronicles cited must therefore be regarded with some scepticism.

[4] At St. Albans Richard's anxiety was thought to be assumed, and he was suspected of having connived with the pope in the recent translations; but his reference of the question to the judges indicates that, whatever his motives, his concern was not altogether feigned. The whole episode, however, raises many perplexing problems. Its clue is probably to be sought in Richard's political aims at this time; but these lie far beyond the range of my present inquiry.

[5] That there was a serious but temporary crisis in the relations between the Crown and the papacy is suggested by a writ, issued while the Winchester parliament was

its effect. Nothing more is heard of attempts by Boniface IX to defeat the sentences of English courts in the way described in the statute. Arbitrary translations, if not entirely stopped, were not used as a means of coercing the English government. The fact was that whatever card the pope of Rome played, the English Crown could always trump it as long as there was also a pope at Avignon. Boniface IX, in his first zeal, had plunged into controversy with England as though he had been Boniface VIII. But the preamble of the statute of 1393 told him plainly that if he persisted in his intentions he would be regarded as an enemy of the Crown and nation. He took the hint: the French were threatening his position in Italy, and they and the English were drawing together. It was no time for desperate measures, and while he continued his attempts to rid himself of the statute of provisors and perhaps even repeated his request for the abolition of the writ of *quare impedit*,[1] he contented himself in future with the methods of polite diplomacy.

Having served its purpose the statute would naturally fall into obscurity. It reappears in the record of the proceedings of the convocation of Canterbury which met in November 1439.[2] The archbishop, in his speech on the causes of its summons, declared that ecclesiastical jurisdiction was being unwontedly disturbed and injured by royal writs, especially the writ 'de praemunire facias'. After discussion of the matter a petition to the king was drafted. It stated that in a parliament [3] in the sixteenth year of Richard II divers punishments and processes by writs of *praemunire facias* were ordained against those who sued in the court of Rome or elsewhere, against any of the king's lieges, regarding anything which was against the king and his crown, as was more fully set forth in the same statute. The statute, however, was obscurely worded, and understood by some in a sense different from that intended by those who made it. For some maintained that it applied to those who sued in courts Christian or feudal courts within the realm, just as much as to those who sued in the court of Rome. This interpretation, the petition urged, was too stringent and would utterly destroy spiritual and feudal jurisdiction and gravely injure the status

still sitting, in which the keepers of the passage at the chief ports were ordered to seize all bulls and other documents coming from abroad and to bring them before the council (Rot. Claus. 16 Ric. II, mm. 14 *d*, 13). By 15 June following this strictness had been relaxed, and the officials concerned were to arrest only such bulls as they deemed prejudicial to the Crown and the realm (Rot. Pat. 16 Ric. II, fo. 3, m. 7 *d*).

[1] The St. Albans chronicles say that the bishop of Dax asked for this in 1398 (*Ann. Ric. II*, p. 228; Walsingham, *op. cit.*, ii. 228).

[2] Wilkins, iii. 533 *seqq.*

[3] Held, according to the petition, at Westminster: a slip which is a warning not to make too much of the wording of the commission of the bishop of Dax in 1398 (*supra*, p. 190).

and liberties of the church.[1] The king was therefore begged to ordain and declare, by authority of the parliament then sitting, that the statute did not apply to anything done or procured in any courts within the realm, against whose encroachments on Crown rights the king had sufficient safeguard, before ever the statute was made, in writs of prohibition and attachment. The archbishop of York, who was asked to co-operate, drew up a petition in English, which was also presented to the king. Henry said that owing to the near approach of Christmas he could not at present discuss the matter fully with his council, but promised that until the next parliament no writ of *praemunire* should issue unless the king and his great council had considered the purpose for which it was required.

The clergy, however, failed to secure a pronouncement in the sense desired. The matter was brought before parliament without effect in 1444,[2] and three years later a long petition in English was presented to Henry VI on behalf of all the clergy of England.[3] It goes into greater detail than the petition of 1439, emphasizing in particular the words 'such' (*lieux*) and 'in the wise aforesaid' (*come devant est dit*), which I have discussed above, and arguing from them that when the statute speaks of the court of Rome and elsewhere, it must mean 'elsewhere without the realm'.[4] Historically, the clergy were doubtless right; but they apparently did not dispute that the statute covered all

[1] 'Suppliaunt humblement Henry archevesque de Canterbirs, et touts ses freres evesques d'Engleterre, que come par le statut fait al parlement tenuz a Westmonster le xvi an du roy Richard le secunde, nadgairs roy d'Engleter, entre aultres divers punishmentz et processes par breves le roy appelles "Præmuniri facias" soient ordines, et purveues vers ceux, que suont en le court de Rome, ou aylours vers ascun liege nostre seigneur le roy, dascun chose, que soit encontre le roy et sa corone, come on le dit estatut pluis a plein est contenuz. Le quel estatut en les parols contenuz en ycell est obscure, et autrement entenduz as plusieurs que l'entent des faiseurs d'icell y fuist al temps del confection de mesme le statut, ascuns intendantes que les paroles de mesme le statut et les punishementz contenuz en ycell, auxi ben averoit relation a eux, que pursuont en ascun court christiane, ou en courtes temporall des seigneurs, et autres, que ount contrepalesez [*sic*] et courtes franchesez . . . dedeinz mesme le royalme, come a ceux, que suont en le court de Rome, come devant est dit, que seroit trop dure, et final destruction de tout le jurisdiction espirituel, et toutes autres courtes et fraunchesez . . . e[t] contre foy et conscience, et en graunt emblemishement del estat et libertes de seint eglise, par le graunt chartre d'Engleterre et par nostre seigneur le roy et plusieurs ses progenitours devant en divers parlementz grauntes, et confirmes, sil serroit issint suffrees entenduz ou adjuges': Wilkins, iii. 534.

[2] *Ibid.* pp. 540 *seq.*

[3] *Ibid.* pp. 555 *seqq.*

[4] 'It was ordeyned . . . that noo man aholde purchase, nor pursue, ner make to be purchased or pursued in the said court of Rome, or other places, ony sute [*sic*, ? such], processe, sentences, or cursyng instrumenta, bull, or any other thinga whatsomeever they be, touching the king his regalie, or his reme of Englande in the wise aforsaid; the which words, that is to say, ony such processe, sentences of cursing, and also the wordes in the wise aforesaid, owen to be nooted, forasmuch as afore in the suggestion was it not spoken, but of processe, sentences of cursyng, and censures maad, and yeven be the pope, and of England, and may not therfor resonably be extended ferther'; *ibid.* p. 555.

documents prejudicial to the Crown which were of foreign origin, and once the statute ceased to be interpreted strictly in the light of the preamble there was no good reason for limiting the meaning of *aillours* in the manner suggested. At all events it is evident that in the royal courts no attention was being paid to the preamble, and that the crucial words *tieux* and *come devant est dit* were being practically ignored. It is significant that, according to the clergy, this was not the only statute which their enemies were trying to wrest to the disadvantage of the church, for the petition goes on to complain that a statute of 1401 against those who procured from the pope exemptions from ordinary obedience was being unwarrantably extended to cover papal licences for non-residence and certain other dispensations.[1]

The further history of the dispute throws no fresh light on the subject of my inquiries. It is enough to say that, except for a small concession made by Edward IV,[2] the efforts of the clergy were unsuccessful.

The petitions just noticed indicate that the statute was being used with vigour against the English ecclesiastical courts, and it is remarkable that I have found no clear instance of its employment as against the pope up to the middle of the century. But that its anti-papal potentialities were not overlooked is shown by the report of a case of 1448, in which it is described as 'le statut des provisors fait l'An xvi le Roy Richard '.[3] Probably the defendant, Thomas Kemp, archdeacon of Richmond, was being prosecuted for accepting papal provision to the see of London,[4] but we are not told what the case was about, the report being concerned entirely with a discussion of procedure, which suggests that the court of king's bench had had little to do with the statute before. The description of the statute is interesting as showing that it was regarded primarily as an anti-papal measure and as illustrating the fact that such acts, however wide their scope, were seldom used to the disadvantage of the pope except in suits concerning papal provisions or reservations, the one question on which the Crown and the papacy were seriously at variance.

It must of course have been some years before 1439 that the statute was rediscovered and first employed to the detriment of the English spiritual courts. The precise date can only be conjectured. Probably it was prior to 1434; for in that year Archbishop Chichele, addressing the convocation of Canterbury,

[1] The act in question was Stat. 2 Hen. IV, c. 3 (*Statutes*, ii. 121).

[2] That the church courts might entertain suits about tithes on great trees without being interfered with by writs of *praemunire* (Wilkins, iii. 584).

[3] *Year Books*, 27 Hen. VI, p. 5.

[4] Cf. Le Neve, *Fasti*, ii. 297; *Official Correspondence of Thomas Bekynton* (Rolls Ser.), i. 155, 157.

bewailed the abuse of the writ of *praemunire* in terms almost identical with those which he afterwards used in 1439,[1] and though the record of this convocation contains no mention of the statute, it is almost certain that it furnished the ground of the proceedings to which the primate referred. Chichele, we are told, asserted on this occasion that the use of the writ 'in any matter within the realm' had been unknown until the last few years. This is of course false, and even if he meant 'any matter originating within the realm', it would still be inaccurate.[2] Probably the archbishop has been misreported and really said that it was only of late that the writ had been used in restraint of English spiritual courts. In any case, the passage points to the fact that the writ had recently been put to novel uses, and this makes it likely that the statute had attracted particular notice not long before.

Now a few years earlier Humphrey duke of Gloucester had been trying hard to compass the ruin of Cardinal Beaufort by charges arising out of the latter's acceptance of the red hat in 1426. His nearest approach to success was in November 1431, when, Henry VI and the cardinal being absent in France, the king's serjeant and attorney, citing the precedents of Archbishops Kilwardby and Langham, urged in the council that Beaufort should be deprived of his see of Winchester, which he had papal dispensation to retain. Gloucester then elicited from the bishop of Worcester that the late bishop of Lichfield[3] had said that he had sued at Rome for the exemption of the cardinal from the jurisdiction of Canterbury and had paid for it. When asked what they thought of these things, the councillors expressed the opinion that nothing should be done until those concerned had been duly summoned, that the ancient records should be searched, and that the justices should state their views on the question.[4] Three weeks later, however, the council agreed that writs of *praemunire* and attachment against the cardinal should be sealed 'on the statute', though they were not to be executed until the king returned to England.[5]

[1] 'Iurisdictio ecclesiastica per brevia regia et alias vias exquisitas et imaginata brevia plus solito perturbata extitit et impedita, et praecipue per brevia illa de "Praemuniri facias", quae nonnisi infra paucos annos in aliqua materia infra regnum aliquem habebant cursum': Wilkins, iii. 523.

[2] For the early history of the writ, see Palgrave, pp. 40, 131, and Leadam and Baldwin, *Select Cases before the King's Council* (Selden Society), pp. 43 *seq.*, 50.

[3] John Caterick, who held the see from 1415 to 1419. Martin V had offered to make Beaufort a cardinal in 1418, but Henry V had forbidden him to accept (*Letters and Papers illustrative of the Wars of the English in France* (Rolls Ser.), ii. 441; cf. Duck, *Vita Henrici Chichele* (1617), pp. 76 *seq.*, 78).

[4] *Ord. Priv. Council*, iv. 100 *seq.*

[5] *Ibid.* pp. 104 *seq.*: 'Concordatum fuit quod brevia de premunire facias et attachiamento super statuto contra Cardinalem sigillentur sed quod execucio eorundem differatur usque adventum Regis in Angliam.'

One is tempted to identify the statute on which the council were to rely with the act of 1393. The two writs correspond to the alternative modes of procedure sanctioned under that measure.[1] No one statute, so far as I know, could be made to cover both the offences with which Beaufort was charged, unless it were that of 1393, interpreted as involving everything prejudicial to the Crown. Beaufort's acceptance of the cardinalate, we must remember, was not in itself an offence and was never treated as such. It was his retention of the bishopric of Winchester and his alleged purchase of exemption from archiepiscopal jurisdiction that gave his enemies their chance. The king's attorney when impugning the first indiscretion seems to have relied on custom and precedent; the second was an offence under the statute of 1401 which appeared in the petition of the clergy in 1447. It is possible, however, that Gloucester and his friends, after considering the results of research in the records and hearing the views of the judges, resolved to construe Beaufort's two dispensations as prejudicial to the Crown and therefore contrary to the statute of 1393.

On the other hand, when in 1440 Gloucester drew up a long and solemn arraignment of Beaufort's career, he argued that the see of Winchester became void when Beaufort was made cardinal, that it was only some time afterwards that he received permission to retain it, and that therefore he was technically appointed to it afresh by papal provision and so guilty of an offence against the statute of provisors. It is evident from this argument and from his allusions to the contents of the statute that he had in mind the act of 1390. As for Beaufort's exemption from the jurisdiction of Canterbury, that, in Gloucester's opinion, followed as a matter of course from his creation as cardinal. He says nothing of Beaufort's having purchased it, and it is probable that this charge, which seems to have rested on very weak evidence, had been dropped.[2]

[1] It was ordained that offenders 'soient attaches par lour corps sils purront estre troves et amesnes devant le Roy et son Conseil pur y respondre . . . ou qe procesce soit fait devers eux par premunire facias en manere come est ordeigne en autres estatutz des provisours et autres qui seuent en autry Courte en derogacion de la regalie notre seignour le Roy' (*Statutes*, ii. 86).

[2] 'Item, the saide cardinal, thanne being bisshop, was assoylled of his bisshopriche of Winchestre. Wherupon he sewed to . . . the pope to have a bulle declaratorie that notwithstanding that he was assumpt to the state of cardinal, that the see was not voied, where in dede it stode voied by a certayne tyme or that bulle was graunted, and so he was exempt from his ordinarie by the taking on hym the state of cardinal; and the bisshopriche of the chirche of Winchester thanne standing voied, he toke it ageyn of the pope; ye [*sc.* king] not learned ne knowyng wherinne he was fallen in the cas of provision, wherby alle his goode was clerly and laufully forfaited to you . . . with more, as the statute declareth, for youre avauntage': *Letters and Papers illustrative of the Wars of the English in France during the Reign of Henry VI* (Rolls Ser.), ii. 442. The statement that the king might have got more than Beaufort's goods

It is unfortunate that no light is thrown on the question by what occurred after the cardinal's return to England in 1432. For he immediately confronted his enemies in parliament, said that according to information received while he was abroad he was accused of treason, and challenged his accuser to bring his charge then and there. Gloucester and the other lords meekly answered that no one had accused him of any treason or, to the best of their knowledge, wished to do so, but that the king held him to be a true and loyal subject.[1] Afterwards, at the petition of the commons, it was ordained that Beaufort should be exempt from all proceedings on account of any offence against any statute of provisors, any exemption, any receipt or execution of papal bulls, or anything else whereby he might be liable to the penalties contained in the statutes of provisors.[2] The wording is of course far too comprehensive to be of any service in our present inquiry.

On the whole, it seems likely that the statute 'on' which the two writs against Beaufort were sealed was that of 1390, and that the charge of purchasing exemption from obedience to Canterbury was dropped. The preparation of two writs might have been suggested by the statute of 1365 no less than by that of 1393, and was, after all, natural in the circumstances: Beaufort was abroad; if he returned, the writ of attachment would be executed; while if he thought it wise to remain on the Continent, proceedings could still be taken against him by writ of *praemunire*. Nevertheless, it may well have been as a result of the researches ordered by the council that the statute of 1393 was drawn from the obscurity in which it had lain and that attention was attracted to its potentialities as a weapon against the pope or the clergy. It is perhaps not without significance that the statute of 1401 which figures with it in the petition of 1447 was one with a direct bearing on Beaufort's case. That an attempt to ruin a cardinal started on its destructive career the measure which, nearly a century later, ruined another and yet greater one may be a mere conjecture, but it is a conjecture that sorts well with all the known facts.

It is of course true that when the statute began to cause public debate, it was generally understood to refer to all documents prejudicial to the Crown if they came from abroad, while the secular courts held that it applied to all such documents irrespective of their source. But there is nothing in this which is incompatible with my view of the original intention of the measure. That there is no recorded instance of its having been

proves that Gloucester was thinking of the statute of 1390, under which he would have had the right of appointing whom he pleased to the see.

[1] *Rot. Parl.* iv. 390 *seq.* [2] *Ibid.* p. 392.

expressly interpreted in the sense I have advocated is of small significance; for if my reading of the act is correct, little use was likely to be made of it until a wider construction had been put upon it. Again, assuming that I have understood it aright, one would even expect its original purpose to be forgotten when, after being lost to sight for more than a generation, it was rediscovered. The courts of law had seldom if ever had occasion to interpret it; few of those who had taken part in its enactment were alive; and unless the circumstances in which it was passed were clearly remembered, it would seem most improbable that a long statute, prescribing very drastic penalties for its infringement, should be exclusively concerned with the punishment of churchmen for executing sentences of the king's courts and the translation of bishops without the consent of themselves or the king, two things with no apparent connexion and moreover unknown in the days of Henry VI. The interval between the enactment and the reappearance of the statute had been a stormy and chequered one for both church and state, and a revolutionary change of dynasty, the conciliar movement, the vicissitudes of the French war, to mention nothing else, might well have blotted out the memory of Boniface IX and his ambitions. Cardinal Beaufort was perhaps as likely as any man to remember the events which had occasioned the passing of the act; but, already under suspicion of preferring the interests of the pope to those of the Crown, he would hardly give a new handle to his enemies by attempting to explain away an anti-papal statute which was probably never actually used to his hurt. The English clergy, while they protested when the statute was turned against their liberties, would only have prejudiced their case if they had put forward the pope as a fellow victim of the abuse of the measure. There was, in short, hardly any one in England whose interest it was to scrutinize the act on behalf of the pope, and as it seems to have been some time before it was employed against him, the wider interpretation of the statute probably became established before the court of Rome realized its dangerous character. Further, while the statute may have been honestly misunderstood, it is evident that anti-papal statutes were in demand during Gloucester's long quarrel with Beaufort, and it appears from the complaints of the clergy that an anti-clerical spirit had invaded the judicial bench, which a generation earlier had been well disposed towards the courts Christian. In a word, conditions were extraordinarily favourable for the misinterpretation of the statute. It was not the only anti-papal measure that owed its importance to a mistake, for the 'statute of Carlisle', cited at length in the first statute of provisors and solemnly denounced by Boniface IX, was no statute at all, but only a fruitless petition

presented at the parliament of Carlisle in 1307.[1] But for examples of how the meaning of an act can be distorted and its range extended, there is no need to look further than the notorious achievements in later times of the very statute we have been considering.

The statute of 1393, as interpreted after its reappearance, was the most serviceable of the laws at the disposal of the Crown in its occasional differences with the pope or the English clergy. It summed up in itself all previous anti-papal legislation, provided simple and effective modes of procedure, and ordained very severe punishments for all encroachments on the rights of the Crown. But as long as any respect was shown for the wording of the statute, it gave the temporal authorities few powers that they would not have possessed without it. Writs of prohibition, of *quare impedit*, *quare non admisit*, and such-like; the long-established royal right, reaffirmed by the ordinance of 1343, of forbidding the introduction into the realm of bulls prejudicial to the Crown; and, in addition, the numerous anti-papal acts, great and small, passed before and after 1393, furnished the Crown with ample resources for resisting invasions of the temporal sphere, whether by foreign or by English churchmen. The statute of 1393 did not seriously threaten the established relations between church and state until the king's courts took to ignoring, not merely the preamble, but certain words in the enacting part, words of restrictive force which yet might be omitted without destroying grammar or sense. Once the preamble was disregarded, the words *tieux* and *come devant est dit* ceased to have much apparent weight, and at some date unknown disappeared from writs citing the statute:[2] even when their full significance was overlooked, they might have served as reminders that the range of the measure was not so wide as the courts assumed. But it was more serious still when the statute was cited as covering everything which touched the king, his crown, regality, or realm, the words 'against him', awkwardly inserted in the original text after the word 'king', being left out.[3] Thus, the writ of *praemunire* in vogue in 1529 makes the penalties of the statute apply to those who pursue in the court of Rome or elsewhere, or bring into the realm, or receive, notify, or in any way execute within the same realm any processes, sentences of excommunication, bulls, instruments, or other things

[1] *Rot. Parl.* i. 219.

[2] From the wording of the petition of the bishops in 1439, it almost looks as if this had already happened, but it is impossible to be certain (cf. *supra*, p. 198, n. 4).

[3] It is strange that the clergy, in their petition of 1447, omit these words (cf. *supra*, p. 198, n. 3). They are, however, attempting to quote the text of the statute itself, so the omission was probably due to mere inadvertence. But it shows how easily the words might be overlooked.

whatsoever which touch the king, his crown, regality, or realm.[1] The pistol was ready primed, and first Wolsey and then the whole body of the clergy put up their hands when it was levelled at them. No other act would have served the king's ends so readily. It is doubtless true that on any conceivable interpretation of the statute the clergy might have contested Henry's allegation that they had broken it by recognizing Wolsey's legatine authority. But the grasp of the statute was wide—who but the king's justices could say how wide?—terrible punishments (partly unknown) awaited those who fell into its clutches, and the clergy feared their fate too much to make a stand for their deserts.

W. T. Waugh.

[1] 'Cum in statuto in parliamento domini [Ricardi] regis Anglie secundi apud Wintoniam anno regni sui xvi tento edito inter cetera ordinatum sit et stabilitum quod si aliquis impetrauerit aut prosecutus fuerit seu impetrari vel prosequi fecerit in Curia Romana vel alibi aliquos processus sententias excommunicationum bullas instrumenta vel alia quecumque quae tangunt nos coronam regaliam seu regnum nostrum, et illi qui ea in dictum regnum nostrum detulerint aut ea receperint vel inde notificationem seu aliam executionem quamcunque infra idem regnum nostrum seu extra fecerint', &c.: *Natura Brevium*, ed. 1529, clxxxiii.

The Transition to the Factory System

THREE leading contemporary authorities on the early history of the cotton industry and of the factory system—Robert Owen, William Radcliffe, and John Kennedy—agree in attributing considerable importance to the achievements of Samuel Oldknow, who first turned the new spinning inventions to full account by the production of finer cotton fabrics in successful rivalry with the East. A couple of extracts from Robert Owen's autobiography will provide the best introduction to the subject of the present article.

The first British muslins were made when I was an apprentice with Mr. McGuffog by a Mr. Oldknow at Stockport in Cheshire, about seven miles from Manchester, who must have commenced this branch about the year 1780, 81 or 82; and it is curious to trace the history of this manufacture. When I first went to Mr. McGuffog there were no other muslins for sale except those made in the East Indies, and known as East India muslins; but whilst I was with him Mr. Oldknow began to manufacture what he called by way of distinction British Mull Muslins. It was a new article in the market, less than a yard wide, for which he charged to Mr. McGuffog 9*s.* or 9*s.* 6*d.* and which Mr. McG. resold to his customers at half-a-guinea a yard. It was eagerly sought for and rapidly bought up by the nobility at that price. . . .[1]

This was the once celebrated and most enterprising Samuel Oldknow who it was known had not long before made seventeen thousand pounds of profit in each of two successive years, and who was then generally supposed to be very wealthy, and was considered a great man in the world of manufactures and commerce. He had made these profits in the manufacture of muslins, while he purchased the yarn from the cotton spinners. He thought the spinners were getting great profits, and he was not like many others, content to do well or very well as he was doing,—but being ambitious, he desired to become a great cotton spinner, as well as the greatest muslin manufacturer. He built a large, handsome and very imposing cotton-mill, amidst grounds well laid out, and the mill was beautifully situated, for he possessed general good taste in these matters. In fact he was preparing and had made great advances to become a first-rate and leading cotton lord.[2]

[1] *The Life of Robert Owen*, written by himself, vol. i. p. 25.

[2] *Ibid.*, p. 40. Cf. Kennedy, *Brief Memoir of Samuel Crompton*, pp. 339–45. The *Gentleman's Magazine* for November 1828, pp. 469–70, contains an obituary notice of Samuel Oldknow, and the late Mr. Joel Wainwright's *Reminiscences of Marple* gives local traditions and several letters addressed to Oldknow by S. Salte.

This cotton mill, which passed into the hands of the Arkwright family, was destroyed by fire in 1892, and has since that date been a picturesque and interesting ruin. A detached portion, however, lying by the river-side and within a stone's throw from the residence built by Oldknow, was not burnt down, and, though in a dilapidated condition, has been used in parts for stabling or for minor industrial purposes. A body of Austrian prisoners was set to work there during the late war. The distribution of some eighteenth-century weavers' pay-tickets by an adventurous boy scout to casual passers-by, led one of the recipients who is much interested in local history to obtain permission to explore the upper floor of this building, and here on 1 January 1921, when he was accompanied by the present writer, there were found a great number of letters, papers, account-books, and other business records of every kind and size, covering the whole floor of a large room and partly hidden from sight by several inches of dirt and débris. To all appearance the records had lain there for a century, and as the room since the fire had lost its windows they had suffered much from the weather and were in many cases indecipherable. The recovery, cleansing, and classification of the remainder, which filled several sacks, was the work of many week-ends on the spot, and has occupied the leisure of the discoverers ever since.[1]

From the first it was clear that, by a piece of almost inconceivable good fortune, the records of Oldknow's previous business as a muslin manufacturer at Stockport had been deposited at Mellor, so that the documents afforded a unique illustration both of the final phase of the 'domestic industry' and of the earliest phase of the factory system. A long and vain attempt to interpret the factory records on the assumption that the fragmentary time-books, wage-sheets, &c., related to the Mellor mill alone, ended in the discovery that part of the records were those of a mill simultaneously erected at Stockport, whilst others concerned a bleach and print works previously established by Oldknow at Heaton Mersey.

Further inquiries in Mellor and Marple, where the tradition of Oldknow's achievements is still very much alive, showed that our interest in the factory and its records had naturally been anticipated by some of those whose fathers or grandfathers had been concerned in its working and management, and who kindly

[1] I am indebted to Mr. Arthur Hulme of Marple, who discovered the records and placed them at the disposal of the University of Manchester, for the classification of an immense number of documents, for the transcription of a great many letters, and for active co-operation in every part of the investigation. Mr. Hulme is using the material for a social and economic history of Marple and Mellor. We are both under great obligations to Mr. E. Furniss, agent of the Arkwright estate in Mellor; and to Mr. J. Taylor of Marple Ridge and Mr. H. Wheeldon of Didsbury for the loan of records.

placed at our disposal records which had long been treasured as family heirlooms. The whole body of records thus recovered is undergoing careful investigation by a group of students of local and industrial history, and the present article is an attempt to state some of the broader results yielded by a preliminary survey.

Samuel Oldknow was born in 1756 at Anderton, which lies about half-way between Bolton and Chorley in the immediate neighbourhood of Rivington Pike. His father, who died in 1759 aged 25, is described on his tombstone at Rivington Chapel, where he was buried, as 'Samuel Oldknow of Nottingham late of Anderton'. A migration of the family in three generations appears to have taken place about this time to Nottingham, where Thomas Oldknow, the grandfather of our Samuel, and Thomas junior and Joseph his uncles, are found carrying on business. Joseph was apparently a grocer, since he dealt in tea, and Thomas junior was certainly a linendraper. Short as his father's married life had been, Samuel had a brother Thomas and a sister, both of whom lived with him later at Heaton Mersey. His widowed mother returned to Anderton and married John Clayton of Roscoe Low. The records give many glimpses of the Clayton family. We hear of three children, Margery, Sam, and John Clayton, junior, who ultimately succeeded Samuel Oldknow at Mellor in 1827.

Samuel Oldknow was apprenticed to his uncle Thomas the linendraper, and in 1781, when in his twenty-fifth year, was taken into partnership with him. This partnership had lasted scarcely a year when it became the starting-point of a new enterprise. It was proposed that Samuel, whilst retaining his connexion with the Nottingham business, should return to Anderton and set up as manufacturer of cotton goods and fustians. The Nottingham shop would furnish the beginnings of a market, but there was to be a salesroom in Manchester, and Samuel might as a further string to his bow undertake an agency for Nottingham hosiery. There can, however, be little doubt that the production of muslins, which within eighteen months had become the essential feature of the enterprise, was from the first under consideration. In his *Early English Cotton Industry* Professor Daniels has shown how favourable in 1781 the conditions were to such an undertaking. The disallowance of Arkwright's patent for carding as a result of the trial of that year, and the almost simultaneous publication of Crompton's invention, gave an immense stimulus to the manufacture of the finer cotton fabrics.

> It took me [says the inventor of the mule] from 1778 to 1779 to finish it. From 1779 to the beginning of 1780 I spun upon it for my own use both warp and weft. In the beginning of the year 1780 I began to spin only

and left off weaving. . . . I had not used it constantly more than Six Months before I was beset on every side by people of various descriptions from the distance of 60 miles and upwards as well as my neighbours . . . whose curiosity was excited by the superior quality and fineness of the yarn I spun hitherto unknown, and which at that time the trade was much in want of. In the end of 1780 it was made public.

The mule was first known as the muslin wheel, and the inventor himself later described it as 'that piece of mechanism that has produced and increased one of the first manufactories in Europe, viz. the fine Muslin and cambric'.[1] In view of the fact that the manufacture of muslins had actually been attempted at Anderton when Oldknow was a boy of eight in 1764, and had failed for want of finer yarn, the inference above made seems irresistible.[2] The fortunate survival of a number of letters, rescued one by one from the factory débris at Mellor, and of two of Oldknow's earliest account-books, with only a page or two missing, enables us to follow in some detail his operations as a manufacturer from his settlement at Anderton in midsummer 1782, up to and beyond the removal of his head-quarters to Stockport in 1784. The first six months were obviously a period of experiment. The weavers whom he was recruiting for his muslin manufacture had at first to be employed on the articles they were accustomed to make. These were the fancy cotton goods of which James Ogden in his famous description of Manchester in 1783 has attempted an enumeration; velverets and velveteens, king's cords and queen's cords, herringbones and buff jennets, dyed pillows and waistcoat jeans, &c. Not until November does the dispatch to three several customers of three pieces of Balassore handkerchief suggest that Oldknow's career as a muslin manufacturer is beginning. During the three months from 24 September (when the record of sales begins) to Christmas about £400 worth of piece goods were sent out. Half of these were disposed of by the Nottingham shop and by a firm of linendrapers in Mansfield, and one of the remaining quarters was taken by Mr. Samuel Mather, who is probably the silk and fustian manufacturer of King Street mentioned in the Manchester directory of 1788. As Oldknow spent far more on cotton than on yarn at this time, he must have found work for a number of small spinners in the neighbourhood of Anderton. He likewise opened an account with Messrs. Peel & Yates for printing and with a fustian calenderer for the finishing of his goods.

[1] Daniels, pp. 101-2, 128-9, 167-9.

[2] Under the heading 'An Old Romance', the *Bolton Journal and Guardian* for 13 January 1922 cites a letter in the *Manchester Courier* of 18 April 1829 signed Civis which claims that the muslin manufacture was permanently established by Thomas Ainsworth at Bolton in 1780.

In the beginning of 1783 a new epoch opens in the affairs of Samuel Oldknow. The partnership of uncle and nephew ceases, though the uncle continues to have important financial relations with the nephew and to offer friendly advice. The chief market for the goods produced is no longer found in the Nottingham connexions or even in Manchester. From this time onwards two London firms, S. & W. Salte and Parker, Topham & Sowden, take about two-thirds of the rapidly increasing output of Samuel Oldknow's manufacture. But—most important of all—it is from the spring of 1783 that Oldknow becomes primarily a maker of muslins. Within three years he was recognized as the first in the kingdom.

Though the detailed record of his sales for this year is wanting, a ledger containing the accounts of his creditors, and an account-book containing a cash account of receipts and payments, a full inventory of his stock-in-trade in August 1783, a list of the spinners and weavers in his employ, and an account of his personal expenses, furnish full particulars of the expansion of his business, and enable us to form a sufficiently clear idea of its commercial and industrial organization. But the central clue to the reconstruction that is taking place is to be found in Oldknow's correspondence with the two London firms above referred to.

Oldknow, who had already improvised a warehouse in Anderton in a building adjacent to the house of his stepfather, had entered in January 1783 into occupation of a saleroom in Manchester on the premises of Mr. Cririe, a merchant in St. Anne's Square, at a rental of £13 a year. Here he accumulated a stock of his goods for show, and rode up weekly at the recorded expense of four or five shillings to push sales and to buy cotton weft and twist. But no sooner were his weavers adequately trained, and a steady flow of muslin products begun, than he discovered that London and not Manchester was the most effective market for his wares. The travelling partners of the two firms of Parker, Topham & Sowden and S. & W. Salte, who were eagerly looking out for the latest novelties in Manchester goods for the spring trade, had prospected a gold-mine in Oldknow's muslins, and each of them was offering to take more than he could produce. Oldknow was in a dilemma. His artistic tastes and his impulsive and speculative temperament urged him to throw himself unreservedly into the manufacture of muslins, but, apart from a possible lack of fine yarn and skilled labour, there were two serious obstacles to the expansion of the business. His output was limited by the smallness of his capital and credit, and the muslin manufacture was liable not only to all the fluctuations of a seasonal trade, but to a sudden and severe burst of competition whenever a large cargo of Indian muslins came into port. Whilst, however, he

needed considerable advances of capital and the guarantee of a steady market for his goods, he did not wish to purchase these advantages by a complete sacrifice of his independence. A draft of a letter to S. & W. Salte on 22 April shows him cautiously feeling his way in this negotiation. Each of the two firms was willing to make advances of capital, but each bargained for an exclusive agency. Oldknow compromised the matter by dividing the London agency between them, and they continued to take two-thirds of his entire output for a number of years.

Having learnt something of the external relations of the new enterprise we may now turn to consider its internal economy. Ample data for this purpose are provided by the recorded stock-taking of August 1783. But first as regards the warehouse at Anderton, in which the business was centred in 1783, there is an interesting letter, undated, but clearly belonging to a later period, asking the landlord for a lease on the ground of improvements effected by Oldknow probably in 1784. A plan is attached to the letter showing that the original structure adjoining Mr. Clayton's house was 31 feet 2 inches long by 19 feet 6 inches wide, and that the addition made by Oldknow had practically doubled the accommodation at a cost of £90. That an eminent manufacturer who claims to have established a new industry should regard £90 as a considerable outlay shows how small a part fixed capital in buildings or machinery as yet played in industrial enterprise. Although there was not much room in Oldknow's warehouse before it was enlarged, it is conceivable that it sufficed for his stock-in-trade at that time. The whole of his 'Fixtures and Utensils', which comprised office furniture as well as machinery, was valued at £57 17*s.* 11*d.* This modest equipment covered all the processes of preparing the warp, giving out the cotton, warp, and weft, taking in, examining, finishing, and storing the cloth.

The warehouse, even before it was enlarged, had apparently separate rooms for giving out and taking in. In the former were four bags of cotton of different kinds, the total quantity being only 234 lb. The cotton of Berbice (77 lb. at 2*s.*) had hitherto been thought the finest, but that of Brazil (130 lb. at 1*s.* 9*d.*) was now thought to be equally good material for fine fabrics. There were also 97 lb. of St. Domingo at 1*s.* 7½*d.* and 20 lb. of Smyrna for coarse fabrics at 1*s.* 4*d.* Besides this, there were 125 lb. in the hands of twenty-three small spinners employed by Oldknow, and a further quantity given out to a score of weavers who saw to the spinning of their own weft, making a total value of about £50.[1] Carefully sorted out in the cupboards and drawers of this room there lay about a couple of hundred-

[1] Cf. Ogden's *Description of Manchester*, p. 88, and Daniels's *Early History*, p. 38.

weight of weft and twist of all counts from twenties to nineties, wound or unwound, and valued at £180. The nine winders had 80 lb. more, but most of the yarn was in the hands of the weavers. Of the sixty-nine weavers employed by Oldknow one was debited only with 2½ lb. of cotton and three with a warp apiece. Of the remainder two-thirds had received warp and weft, and one-third warp and wool. In a score of cases the weavers are said to have received with their weft or wool only a third, a half, or two-thirds of the warp, the implication being that they were to provide the rest themselves. The total value of the materials thus given out to the weavers was £261 17*s.* 11*d.* But by far the greatest part of Oldknow's assets was to be found in his stock of manufactured goods valued at £812, of which four-fifths were muslins mainly in the Anderton warehouse, and one-fifth other cotton goods mainly in the Manchester salesroom; and in the book-debts owing to him, amounting to £1,407. Against total assets in these various forms of about £2,636 there were Oldknow's own debts, which amounted to £1,548, including a loan from A. Crompton, Esq., of £1,000.

In spite, however, of this favourable balance, the problem mooted by Oldknow in his letter to S. & W. Salte in April of finding capital for expansion of his business had not yet been solved. It is true that both the London firms had given him permission to draw upon them, that is, to borrow money on security of goods not yet delivered; and, if drafts made in round numbers represent such loans, the firm of S. & W. Salte advanced £670, their total payments for the year being £1,387. But such temporary advances, however helpful, did not enable Oldknow to realize his ambitions, and it is clear from later letters that Messrs. Salte were not prepared to invest larger sums for longer periods in the muslin business. The one man who was known to be rendering this kind of aid in other directions was Richard Arkwright, then the recognized leader of the cotton industry, and he likewise had in his hands the main supply of one of Oldknow's chief materials. It is not surprising, therefore, to find the book of sundry expenses recording two visits of several days each to Derby and Cromford in November and December 1783, and three longer journeys, one of them lasting a fortnight, to Cromford and Nottingham in January and February 1784. These long discussions with Arkwright led to business arrangements including a loan of £3,000 at 5 per cent., which was to enable Oldknow to start his manufacture on a larger scale at Stockport. The details of the bargain have not been preserved, but its broad significance is clear enough. The new inventions had endowed certain forms of fixed capital with unexampled powers of production, and the disposal of the surplus thus created gave to the

possessors of that capital the initiative and direction of new industrial enterprise. Although for some years to come Salte remained Oldknow's chief patron and adviser, it was the influence of Arkwright that from this time onwards determined his career and gradually transformed him from an 'eminent manufacturer' into a 'captain of industry'. This is shown in a letter from Oldknow's brother Thomas, who had from the first been brought into his Stockport plans and had shared the interviews with Arkwright. 'You will naturally suppose', he writes to Samuel on 16 February 1784,

> my thoughts have been considerably employed in thinking of this new employment, but whether a Bleacher or Spinner, I am as yet undecided. The profits Mr. Arkwright seemed to think equally advantageous, though Bleaching in all probability the most lasting. What Mr. Arkwright says with respect to the profits of Bleaching may be true, but cannot say my throat is sufficiently wide to swallow the information for fact. I dont know whether I told you what he said. At least you had not time to consider it properly. I shall therefore repeat it for your better consideration. . . . He said if I returned £1,200 per annum by Bleaching I should not have above £300 to pay out of it. He further said if you would manufacture 200 pieces per week the Bleaching and Dressing of them would be 2*s.* per piece that would amount to £20 per week and that I should clear £12 out of the £20. These are profits in my opinion too great for the returns, so great that every manufacturer would be his own Bleacher. However I shall be satisfied if the profits are half as much.

Stockport, when Oldknow set up his manufacture there, had already passed through one phase of the industrial revolution and was just entering on another. Silk-throwing had been carried on as a factory industry for over half a century.[1] A partnership formed in 1732 between three gentlemen of Stockport, two chapmen of Heaton Mersey, and a London merchant, had acquired and improved the water-power of the manorial corn-mill for this purpose. In 1744 a reservoir was constructed on a stream running into the Mersey, and by 1768 half a dozen silk-mills were at work in the town.[2] When, therefore, the new spinning inventions began to be widely adopted the whole framework of the factory system had been erected at Stockport and was waiting to be taken over. Not only water-power and

[1] In Defoe's *Tour* (edition of 1769), Stockport is described as 'inhabited by a great number of gentry and well filled with warehousemen who carry on the check, mohair, button and hat manufactures. Here the raw silk is chiefly thrown and prepared for the Spitalfields weavers by six engines the buildings of which are of prodigious bulk, one of them containing above 45,000 movements which fill the spacious room up to the fifth storey and are all put in motion by one wheel that goes by water. . . . At this place poverty is not much felt except by those who are idle, for all persons capable of tying knots may find work in the silk mills, which employ near 2,000 people and where children of six years old earn a shilling a week and more as they grow capable of deserving it.'

[2] Higinbotham, *History of Stockport*, ii. 317–18.

buildings but also the child labour could be transferred readily from silk to cotton. Henry Marsland, a cotton manufacturer at Bosden near Stockport, who had been one of the first to set the new spinning frames to work by horse-power, acquired in 1783 the Stockport silk-mill with the manorial water-rights, and became the first large cotton spinner in the town. There were already smaller cotton spinners at work, and Stockport was becoming a seat of machine-making and invention.[1]

The new warehouse having been opened in March 1784 and a connexion already formed amongst the weavers of the district by his manager, on 21 July Oldknow rode over to Stockport, taking with him a £50 banknote and £225 in bills, which was half the purchase money of a house and land situate in the Hillgate, Stockport, belonging to Mr. Giles Walmsley. The other half of the price was to be paid within six months. Fourteen years later, when Oldknow's property at Stockport was offered for sale by auction, it was described in the following terms:

Lot 1. All those extensive PREMISES, late in the occupation of Mr. Oldknow and now occupied by Messrs. Parker, Sykes and Co., pleasantly situated in the Higher Hillgate, Stockport; consisting of a good House, Stabling, Offices, Garden, and commodious Buildings five stories high, now used for Spinning, and the Manufacture of Muslins and other Piece Goods and has every necessary Convenience for making One Thousand Pieces per Week; the site of which contains about 7,640 square yards, part freehold and part lease-hold for long terms of years. Together with an excellent STEAM ENGINE of Messrs. Boulton and Watts' constructing; and many valuable Fixtures which will be sold therewith.

Lot 2. Five good, substantial BRICK DWELLINGS, with a Picking-room and Loom-House standing on lands held for ninety-nine years under the Rector of Stockport, adjoining the above.

The first of these lots is let for £520 a year and the second for £80; making together a neat rent of £600 a year.

It was in these premises or part of them that William Radcliffe, two or three years later, made what he claimed to be the first practical beginning of power-loom weaving. But apart from the application of power in weaving, the factory system in every other aspect had already, as the above notice shows, been applied to the production of cotton goods with spinning as a subsidiary process, by Samuel Oldknow on the same spot. This achievement, which belongs mainly to the years 1786–92, involved such a further acquisition of land, such an increased investment in buildings and machinery, that, at the completion of the process the rent of the property was more than its capital value had

[1] Wheeler, *Manchester Chronicle*, 19 October 1782, letter signed Senex; and *Manchester Mercury*, 18 February 1783, advertisement of W. Mycock.

been at the beginning. It is improbable that more was included in the purchase of July 1784 than the house, stabling, and offices, and a piece of land to be used for extensions, and it would seem that these premises served both as a residence and a warehouse from October 1784, when Oldknow moved to Stockport, till 1786, when he built a house at 'Heaton'. During these two years he was still an eminent master-manufacturer of the old style, differing in no essential respect from the draper or clothier of sixteenth-century England or of fourteenth-century Ghent or Florence. It is therefore desirable that we should bring together such facts as the new records furnish about the organization of his business in its simpler form before the fundamental changes that followed the crisis of 1787–8.

First and foremost he was an employer of weavers. When he moved his head-quarters to Stockport he had no intention of abandoning his warehouse at Anderton, or of relinquishing the assistance of the muslin weavers he had trained there. The list grew from sixty-nine in 1783 to over one hundred and fifty in 1786, of whom all but eighteen were muslin weavers, and from May to November 1785 an average of 370 pieces a month was being dispatched to Stockport by Thomas Swift, the manager at Anderton. At that time the output at Stockport was not so good, either in quantity or in quality, but by the close of 1786 it had reached four times that amount (about 1,600 pieces a month), and the Anderton weaving diminished till, in 1793, there were only forty weavers on Oldknow's list as compared with 340 at Stockport. As, however, the Anderton branch kept up a connexion with from fifty to a hundred small spinners in the Bolton district the value of the yarn sent monthly to Stockport grew from £50 in 1785 to £200 in 1788, and £300 in 1790. The small spinners of the Stockport district (to the number of about fifty) were producing about £400 worth a month in 1786–7 to Oldknow's account, but he must have been getting by that time from Arkwright and other big spinners more than twice the amount of twist and weft supplied by all the small spinners combined.

It was the relation of the master-manufacturer to the small spinners and the weavers that constituted the characteristic feature of the old industrial régime. He was their employer in the sense that he supplied them with practically all their raw material. All the weavers and most of the spinners thus employed were themselves manual workers with a standard of life comparable to that of the modern wage-earner. The weavers had long been organized in friendly societies which were in effect trade unions,[1] and the journeymen spinners had lately followed

[1] Daniels, pp. 44–55.

their example.[1] But in two important respects their position differed from that of the organized workers of more recent times. The master weavers and spinners were small capitalists in respect of the implements of their calling, and they stood to their employer in the twofold relation of debtor and of creditor. Normally each had a ledger account opened for him where he was debited on the one hand with the materials given out to him and credited on the other hand with his labour.[2] A ledger of this kind, complete except for the loss of about a score of its initial and final pages, gives a full and continuous account of Oldknow's relations with the weavers of the Stockport district for almost two years after he set up business there in February 1784; and fragments of similar ledgers exist for 1786 and 1790–1 (60 folios). There is also a daily record of the goods delivered by the weavers from November 1786 to April 1787, and complete sets of daily bundles of weavers' pay-tickets for the months of December 1793 and June 1794, from which an account of the output and the earnings of the weavers for these periods can be compiled. A day-book record of the sales of the firm has been recovered which, though in tattered fragments, constitutes a complete account of the output for twenty-seven of the forty-four months between June 1786 and January 1790. Other records that have survived are nine warping-mill books, giving a continuous record of the character of about half the output from 1787 to 1792, several weavers' piece-work price-lists, the accounts of three stock-takings, and an invaluable costing-book which analyses the composition and estimates the cost (including a profit of 20 to 30 per cent.) of a great variety of calicoes, shirtings, and muslins.

By a careful study of all these data it should be possible to give a far more detailed account of the cotton industry before the coming of the factory system than has yet been attempted. All that can be done here is to place some of the broader statistical results of the investigation in relation to our previous sources of information.

The *locus classicus* on this subject is the retrospective account of William Radcliffe written in 1822, which distinguishes between three periods, (1) before 1770, (2) 1770–88, (3) 1788 and after. In the first period—before the spinning inventions or even the fly-shuttle had come into common use—

> the father of a family would earn from eight shillings to half a guinea at his loom, and his sons, if he had one, two or three alongside of him, six or

[1] *Manchester Mercury*, 21 January 1785. Advertisement by Friendly Society of Cotton Spinners of Stockport.

[2] The weaver was never, and the spinner seldom actually, debited in cash value with the materials. The amount of the cotton or yarn delivered was placed to his debit, no doubt with a view to its being recovered, if necessary, at law. The establishment of small debt courts, with the employing class as assessors, is one of the most significant developments of the period. Cf. 17 Geo. III. c. xv.

eight shillings each per week; but the great sheet anchor of all cottages and small farms was the labour attached to the hand wheel . . . it required six to eight hands to prepare and spin yarn . . . for one weaver—this clearly shows the inexhaustible source there was for labour for every person from the age of seven to eighty years . . . to earn their bread, say one or two shillings per week, without going to the parish.[1]

The idyllic effect of this account is marred by the reflection that a father and two sons earning 24*s*. a week would require a family of at least eighteen—wives, children, and aged parents—to card and spin for them, and that the maximum earnings of such a patriarchal group of twenty-one persons would be 60*s*. per week.

In the second period—from 1770 to 1788—'cotton was become the almost universal material'; the hand-wheels were displaced by jennies, the carding for all but the finer yarn was done upon engines, and the fly-shuttle was generally adopted on the looms, which would thus have a greatly increased output, even though their number (as Radcliffe thinks was the case) did not itself increase during this period. Of the family income at this time Radcliffe tells us nothing, but though the 'inexhaustible demand' for infant and aged labour was gone those engaged in carding and spinning would be earning at least twice the wages of their predecessors. The opening of the third epoch in 1788 was due to 'the mule-twist coming into vogue for the warp as well as weft', which

put all hands in request of every age. . . . New weavers' cottages with loomshops rose in every direction, all immediately filled and when in full work the weekly circulation of money as the price of labour only rose to five times the amount ever before experienced in this subdivision, every family bringing home weekly 40, 60, 80, 100 or even 120 shillings per week.[2]

There are strong *a priori* reasons for treating these figures with critical caution. Writing as a disappointed old man in a time of extreme depression for hand-loom weavers, Radcliffe could scarcely fail to exaggerate the prosperity which had undoubtedly existed in his youth. Whilst our records confirm his recollection of a great boom in textiles for two or three years following 1788, they do not tend to substantiate his retrospective estimate of rise in family incomes, and they show that the boom was succeeded by a severe depression. William Radcliffe, it should be added, was born at Mellor and began his career by supplying warps to Oldknow's weavers.

The Stockport ledger account shows 73 weavers in regular

[1] Radcliffe, *The Origin of Power Loom Weaving*, pp. 59–60.
[2] *Ibid.*, pp. 61–2.

work in 1784 and 115 in 1785, and the average earnings in the November of these two years is 14*s.* 7*d.* for weavers with one loom, 26*s.* for those with two looms, and 30*s.* for those with three. The taking-in book of 1786–7 enables us to identify the number of looms under the management of each small master. There were 300 weavers with 475 looms, subdivided as follows :

With 1 loom	With 2 looms	With 3	With 4	With 5	With 6	With 7
193	68	19	15	2	2	1

Average weekly earnings of each class :

13*s.* 11*d.* 28*s.* 7*d.* 38*s.* 4*d.* 48*s.* 4*d.* 65*s.* 10*d.*

Unfortunately there is no record of the same completeness for the two years of exceptional prosperity. A considerable fragment of a weavers' ledger for July–December 1790 enables us only to ascertain the average earnings of a score of individual looms, a few of which were engaged on calicoes and shirtings and the rest on muslins. One weaver of figured muslins earned as much as 33*s.* a week, and the earnings of three others were 23*s.* 9*d.*, 23*s.* 1*d.*, and 20*s.* 3*d.*, but the average of all the twenty weavers is only 12*s.* 7*d.* A complete set of weavers' pay-tickets for June 1794, when trade was very bad and Oldknow was just about to abandon the muslin manufacture, and representing 180 weavers and 223 looms, shows the average earnings to have been :

1 loom	2 looms	3 looms	4 looms	
145	26	4	3	weavers.
7*s.* 1*d.*	14*s.* 8*d.*	19*s.* 7½*d.*	23*s.* 6*d.*	earnings per week.[1]

If we accept the estimate of Radcliffe for 1770 as a base, our records show at the end of the second period, i.e. from 1784 to 1787, an increase of about 50 per cent. in the earnings per loom. They do not substantiate any marked increase in earnings per loom after 1788, but are not inconsistent with a considerable increase in family earnings due to extended employment in 1789–90. This latter, indeed, may be regarded as certain, but it cannot have been on the scale represented by Radcliffe, and it is very improbable that the earnings of even patriarchal households of two or three families amounted to £6 or even £5 a week.

G. UNWIN.

[1] The above statistics, drawn from the Oldknow records, were furnished by the calculations of Miss F. Collier, M.A., in her thesis on 'The Family Income and the Family Economy of the Working-Classes in the Cotton Industry during the Industrial Revolution', and by Mr. G. Taylor, B.A., who is preparing a thesis on 'The Handloom Weavers of the Stockport District, 1784–94'.

(*To be continued*)

Lord Bryce

IT may be said of Lord Bryce *multis ille bonis flebilis occidit*. In the pages of this Review we may justly, and with a natural piety, add *nullis flebilior quam historicis*. He was a man 'universal in all things', touching life at many points, and adorning what he touched: he was traveller, jurisprudent, statesman, and publicist; but there are many to whom he will always be remembered most especially as a lover of history and historical knowledge. It may almost seem that it was by an accident—the winning of the Arnold Prize, nearly sixty years ago, by an essay on the Holy Roman Empire—that his thoughts were turned to history. If it were so, it was a most fortunate and auspicious accident; for through all the course of a long life history was henceforward to be an abiding possession and a perennial interest in his mind. Busily occupied as he was in multifarious activities, historical studies were rather the occupation of his leisure than the business of his working day. But the occupations of leisure can be the noblest of occupations; and the pursuits to which the mind turns in moments of freedom may be followed with a zest and a fervour which it is hard to maintain in the dull recurrence of daily routine. It is certain, at any rate, that Lord Bryce always brought an eager and alert vitality to the study of historical problems, and always found a genuine delight in the company of historians. Two instances occur to the mind which deserve to be recorded. Some eighteen years ago Lord Bryce was engaged in the preparation of a new edition of the *Holy Roman Empire*, and it was the good fortune of the present writer to be associated with him as his assistant. At the end of August 1904 he was just about to leave London for the United States, but his mind was running with unabated energy on medieval questions. A letter of 19 August, written on the eve of his departure, raises a crop of *quaestiones*—the date of Nicolaus Burgundus; what is to be said about Isaac Angelus and Bonaventura; what is the best edition of Gerhoh; what manner of bibliography should be appended; whether a chronological table of events is desirable, and how it should be constructed. The second instance is curiously analogous, and much more striking. A dinner was being arranged at the end of 1905, in honour of Mr. R. L. Poole,

to celebrate the completion of twenty years of the Review. Bryce was to take the chair. Sir Henry Campbell-Bannerman was forming a ministry; he had asked Bryce to become Irish secretary; and he was forced to pay a flying visit to Ireland two days before the date fixed for the dinner. Just as he was about to leave England he wrote a postcard from Holyhead: 'I have had to cross over to Ireland, but hope to return on Thursday night and to be at the dinner on Friday. Should anything occur to prevent my arriving, I will telegraph; but I have done everything in my power to secure my being free to come.' He came.

Sixty years of unflagging and versatile work lay between the date at which he took his Oxford degree, in 1862, and the date of his death. He was called to the bar in 1867, and practised for the next fifteen years. Occupied as he was in London, he still maintained a close connexion with Oxford. He had been scholar of Trinity and fellow of Oriel; in 1870 he became regius professor of civil law, and he held the chair, though without residing in Oxford, till 1893. But by 1880, when he became member of parliament for Tower Hamlets, he had already turned to politics. He was under-secretary of state for foreign affairs in Mr. Gladstone's brief ministry in 1886: he was successively chancellor for the duchy of Lancaster and president of the board of trade in the liberal ministry of 1892–5; he was chief secretary for Ireland under Sir Henry Campbell-Bannerman from 1905 to 1907. A new epoch of his life began in 1907. Recognized as a foremost authority on the affairs of the United States after 1888, when he published his *American Commonwealth*, he was appointed ambassador at Washington; and he held that office, with unqualified success and universal approbation, till 1913. The last nine years of his life he divided between his house at Forest Row and his flat in Buckingham Gate. They were in no sense years of retirement. He served as chairman of the committee on Belgian atrocities; he advocated the cause of Armenia; he played no small part in the thinking and the discussions which helped to bring into life the League of Nations. He was often to be seen, and he often spoke, at public gatherings in London—at the opening of the Institute of Historical Research; at the unveiling of the bust of George Washington in St. Paul's; at any gathering which touched the many interests he cherished. Only a fortnight before he died he delivered the inaugural address at the annual meeting of the Historical Association in King's College, London.

It was a busy life of action; but he found abundant time for the life of contemplation also. The list of his published works embraces some fifteen different items. He ranged from the

Flora of the Island of Arran, on which he published a work in 1859, at the age of 21, to Modern Democracies, on which he published two volumes in 1921, when he was 83. He wrote books of travel; books of descriptive politics (with which his name will perhaps be specially associated); studies in law, and studies in history. Two of his books—the *Holy Roman Empire* and the *American Commonwealth*—are permanent classics; two others—his *Studies in History and Jurisprudence* and his *Modern Democracies*—are mines of solid learning and searching observation. If he did not write on the classics, he was a sound classical scholar, with a classical scholar's gift of happy quotation. If he was a politician, he was also an educationalist. One of his early writings was a report on the condition of education in Lancashire, published in 1867; and he rendered an even greater service when he acted as chairman of a royal commission on secondary education in 1894. If any man ever did, he may seem to have filled his life and fulfilled his plans. Yet he had his unachieved ambitions. The work on Modern Democracies was originally planned as a History of Democracy; but the mass of material proved too abundant for the potter's hand. And there was a work on Justinian of which he sometimes spoke, and of which, it may be, some portions are to be found among his unpublished papers.

He was a spare figure, with eyes that you could not but associate with a rapid and piercing vision, set deep under bushy brows. His voice was not resonant, and it had no large compass; but he persuaded and convinced by the weight of what he said. He had a great discourse in conversation. He had seen many countries, and lived through many years; and his retentive memory gave him a rich material on which he readily drew. There were times when his wealth was his own embarrassment; and discursiveness might on occasion be the penalty of his width of range. But he had a shrewd judgement: he never missed the point, even if he turned aside for the moment to follow the many suggestions of association which his memory conjured before him; and you could trust him to reach with a just precision the conclusion of the whole matter. He had the encyclopaedic mind which is vouchsafed to a chosen few among scholars. He could readily have joined the company of Scaliger or Casaubon or Grotius. Perhaps he was not, in the strict modern sense, a researcher; but he was, to a very high degree, an inquirer. He was an eager traveller in many lands, with a zest for climbing; and he travelled in the mind as he travelled in the body, with no less zest for reaching peaks and points of vantage. He had that abundant curiosity which is the mother of observation and wisdom; and it was joined with an unassum-

ing and natural simplicity of manner, which enabled him to talk easily and associate readily with all the men whom he met. All the qualities of his mind conspired to win him instant and lasting success in the years in which he was ambassador at Washington. Americans honoured the encyclopaedic range of the scholar: they admired the observer who had written the classical work on their own commonwealth; they had an affection for the man himself, with whom it was so easy to talk, on a footing of simple equality, whether at receptions, or in clubs, or in the Pullman car of the railway train, or in any other place where men were gathered together. He was simple in a land that loved simplicity; and of all the phases of his political activity that of his embassy was perhaps the one in which all his gifts worked most harmoniously together to achieve an unparalleled success.

In the pages of this Review it is fitting that Lord Bryce should be more especially mentioned as a political observer and as an historian. As a political observer he had for his forerunners Montesquieu and Tocqueville, as he has for his successor (if we may speak of a successor) Mr. Lawrence Lowell, the author of a work on the *Government of England* which gives back to England in good measure what Lord Bryce gave to America in his volumes on the *American Commonwealth*. The cultivation of this field of descriptive politics is a matter of no small moment in the modern world. To explain to one country the genius of the institutions of another is to act as an intellectual ambassador, and to lay the foundations of international understanding. There is an internal logic which connects the work of Lord Bryce as a master of descriptive politics both with his embassy at Washington and with his labours in later years in the cause of a League of Nations. He was, indeed, following the most native and the most strongly marked of all his inclinations when he wrote on the institutions of other lands—the United States, France, Switzerland, South Africa, and South America; for here the traveller was at one with the scholar, as the scholar was at one with the statesman. Not only had he, as a traveller, seen what he described face to face; not only did he, as a scholar, know the past of what he described, and the past of other things similar: he had also, as a statesman, played his part in active politics, and he knew with an internal knowledge the actual working of institutions. His books in this field must remain for long years the original and authoritative sources from which scholars will draw their accounts of the nature of the political institutions of a large part of the world at the end of the nineteenth and the beginning of the twentieth century.

In political theory, as distinct from political institutions, he was less interested and less versed. There are pregnant passages

in the *Holy Roman Empire* on the medieval theory of the empire; there are essays in the *Studies in History and Jurisprudence* on matters of political theory such as Obedience, the Nature of Sovereignty, and the Law of Nature. But his mind inclined to the concrete rather than to the abstract; he had not that passion for 'seeing things together' which makes the philosopher. He was less interested in what the state should be than in what it was; he wished to know what it did rather than what it should do. He believed, indeed, that a knowledge of the past and the present was a guide to the future; but he did not, perhaps, investigate the implications or the validity of that belief, nor did he reckon very greatly with the part which ideals—ideals that stand above time and experience—may play in the lives of men. He was an Aristotelian rather than a Platonist; he turned to the 'polity of the Athenians' more than to 'the polity which is laid up in the heavens'.

As an historian he gave to his fellows a book which has been a profound influence for nearly sixty years and will be a profound influence for many more; an essay on the Life of Justinian by Theophilus, which appeared in the second volume of this Review; and a number of historical addresses and studies which range from the ancient Roman empire to primitive Iceland. His book on the *Holy Roman Empire* appeared in 1864, with a motto on the front page, which disappeared in later editions, *verso Tiberim regit ordine Rhenus*. It was a slim volume of 176 pages; but already, as is stated in its preface, it had been 'greatly changed and enlarged since it was composed for the Arnold Prize at Oxford'. It continued to be greatly changed and enlarged. In forty years there were four new editions (one of which—that of 1875—was reprinted no fewer than fourteen times), as well as translations into French, German, and Italian. It is curious to compare the edition of 1904 with that of 1864. It contains 571 pages in place of 176; and it contains in addition some 70 pages of prefatory matter. New chapters have been added, especially the fine chapter on the theory of the medieval empire; a profounder learning has given a new substance, and a deeper understanding has informed the whole theme. Yet we must not undervalue the original edition. Appearing in the same decade as Maine's *Ancient Law* (1861), it was no less of a landmark and perhaps even more of an influence. It suggested a new interpretation of the course of the development of the modern world; and instead of tracing, like Gibbon, the decline and fall of civilization from the happy age of the Antonines, scholars were henceforward able to regard the imperial scheme as something which survived, as a living idea and an active force, through all barbarian invasions and dark ages and tumults, and main-

tained the conception of an ordered polity until the days in which Europe was able to organize itself on new and original lines of its own.

The author of the *Holy Roman Empire* was pledged to history by his own firstfruits, and he never failed to redeem the pledge. He was always prepared to take any pains which might advance the cause of historical study. Of the *English Historical Review* itself, as Mr. Poole has testified in a recent number, he was, if not the father, at any rate the godfather. As early as 1867 he had been planning a purely Historical Review; and when in 1885 the foundation of this Review was taken in hand by a group of scholars at Oxford—acting, Mr. Poole believes, under the inspiration of York Powell, who had talked the matter over with Bryce—he was invited to become its editor. Already immersed in politics, he was unable to accept the invitation; but it was through him that Creighton became the first editor; it was he who gave a dinner-party at which the policy of the Review was settled; and it was he who wrote the preface for the first number. One of the articles which he contributed has already been mentioned; another, which appeared in volume vii. was a memorial notice of Freeman. And now, thirty years afterwards, in this thirty-seventh volume, it is of Bryce himself that a memorial notice falls to be written. Few as are the titles of the present writer to compose that notice, he has at any rate one—which he shares with many others—that he found in Bryce a generous inspiration and encouragement. For he was kind with a great kindness to young students: he would write to welcome their 'prentice efforts; he would gather them round his table, and encourage them by his suggestion and advice. He has left many monuments behind him. His books are possessions for ever in the student's library; the work which he did in politics is a permanent part of national, and indeed of international, history. Among other monuments there stands the remembrance and the affection of those whom he helped and encouraged. There are nations which call him benefactor (*testis Armenia*); but among other and larger cares he always remembered the service of scholarship, and was always ready to aid any student concerned with those studies of history and politics of which he was so eminent a master.

ERNEST BARKER.

Notes and Documents

St. Benet of Holme and the Norman Conquest

THE agrarian history of East Anglia in the middle ages is the natural result of the form of society described in the Domesday survey of that region, but the East Anglian Domesday is at present a record in isolation. Few documents have been published to illustrate the working of the characteristic East Anglian economy in the early decades of the twelfth century. The distinctive features of that economy, the absence of any standard peasant tenement, the loose attachment of free landowners to estates devoid of any geographical unity, the prevalence of the cash nexus as the tie uniting lord and man, undoubtedly persisted through this dark age. But at the present time any records which throw light upon East Anglian society in the two generations which followed the Conqueror's death are of value as rarities, quite apart from any intrinsic interest which they may possess.

The late thirteenth-century register of the abbey of St. Benet of Holme [1] contains important material of this kind. Essentially a collection of leases and grants of monastic property, it includes copies of many royal writs and private charters, and numerous incidental memoranda. Among these memoranda a hand of the fourteenth century has copied a detailed statement of the encroachments which the property of the abbey had suffered from Roger Bigod, the greatest landowner in Norfolk in 1086, and his men.[2] The original statement was composed between the election of Abbot Richer in or soon after October 1101 and Roger Bigod's death in 1107. It was a strictly contemporary record. It speaks of encroachments by the reeves of Ivo de Verdun in the year in which it was written. It may be regarded as an appendix to the schedule of 'Invasiones in Nordfulc' which concludes the Norfolk Domesday.[3]

Que Rogerus Bigot 7 homines eius de abbacia sancti Benedicti iniuste subtraxerunt / subscripta manifestant. Ipsemet .R. apud Smalebergam

[1] MS. Cott. Galba, E. ii. [2] fo. 205.

[3] The text is reproduced with the punctuation of the manuscript, but capital letters have been inserted where sense demanded them. All the places mentioned in the memorandum and in the other documents which follow are in Norfolk.

aufert quicquid Walterus tenet 7 quicquid habet in Tunstede hundred.[1] Ipse etiam Walterus aufert iniuste . Ulfkitelo homini nostro de Dilham .x. acras 7 quendam hominem.[2] Et in Ludham ferding in Scharstede .iii. acras quas tenuit Oswaldus . 7 Cnut rex dedit monasterio cum Horninga.[3] Et apud Westwyc. ipse .R. aufert .ii^{or}. sokemannos. Leffi [*sic*] 7 Howard.[4] Et apud Thurgertonam .xx. acras quas possederunt due mulieres . Blide 7 Tbie [*sic*] 7 iiii. homines.[5] Et apud Suthstede ? domum Elfgari cum carrucata terre.[6] Et Elwyne de Basingham sedet super duas acras que pertinent ad aulam de Thurgertona.[7] Et in Tweyt .ii. acras 7 dimidiam 7 quendam hominem aufert ipse .R.[8] Et in Grengesvilla domum Wymundi presbiteri 7 quicquid pertinet domui. Et de pastura que adiacet aule ? prepositus eius abstulit .xii. acras.[9] Et inter Poringlond 7 Magnam Schotesham .xv. acras.[10] Et apud Ludham ferding aufert ipse .R. scilicet

[1] In Smallburgh a sokeman gave a ploughland to St. Benet T. R. E., and held it of the abbot in 1086 (*D. B.* ii. 219 b). In the same place there were twenty-eight other sokemen in 1086 with a ploughland among them. Roger Bigod had three free men there, of whom one had belonged to Robert Malet's predecessor, the other two to St. Benet, who possessed soke over all three (*ibid.* ii. 187). The Walter of the text cannot be identified in Domesday, but he is certainly identical with the Walter of Smallburgh whose gift to Thetford priory was confirmed by William Bigod, Roger's son (*Mon. Ang.* v. 149, col. 2).

[2] Domesday assigns to St. Benet a sokeman having thirty acres, one bordar, and a plough-team (ii. 219 b). The Ulfkitel of the text is probably identical with this sokeman.

[3] The phrase Ludham ferding comprises that portion of Happing hundred which is included in the Domesday description of St. Benet's manor of Ludham (ii. 220). It is probable that this portion was originally an exact quarter of the hundred, for Ludham paid 5*s.* of geld out of 19*s.* 6½*d.* laid upon the hundred as a whole (*Vict. County Hist., Norfolk*, ii. 207). Another of these quarters was formed by Waxham and Happisburgh, paying 2*s.* 6*d.* each. 'Scharstede' is not separately entered in Domesday, nor is there any reference to this place in Cnut's charter founding St. Benet's abbey, which merely purports to grant the vill called Horning with its appurtenances of Ludham and Neatishead (*Mon. Ang.* iii. 83). The ferding as the quarter of a hundred is recorded twice in the Suffolk Domesday (*Vict. County Hist., Suffolk*, i. 358), but does not occur in the survey of Norfolk. It is difficult to connect the form ferding with the Old English *feorðling*, a quarter. It probably represents the Old Norse *fiorðungr*.

[4] Westwick only occurs in Domesday as an appendage to Roger of Poitou's manor of Tunstead (ii. 244 b), but between 1127 and 1134 Abbot William I granted to Adam son of Herman all that St. Benet possessed in Westwick and Tuttington (MS. Cott. Galba E. ii, fo. 55 b).

[5] In 1086 St. Benet had a manor of two ploughlands in Thurgarton (*D. B.* ii. 216). Roger Bigod had two bordars in Thurgarton who belonged to Hanworth and an unnamed free man held by a certain Ilving (ii. 179 b, 185).

[6] Domesday assigns nothing to St. Benet in Sustead. This ploughland may have been included in the survey of Thurgarton.

[7] See above, n. 1.

[8] In 1086 St. Benet held a manor of two ploughlands in Thwaite (*D. B.* ii. 218).

[9] This place is now divided between Stoke Holy Cross and Caistor by Norwich (*Vict. County Hist., Norfolk*, ii. 141). St. Benet held a manor of one ploughland there in 1086 (*D. B.* ii. 217). The land was granted at rent by Abbot Richer to William de Curecun, a tenant upon the Bigod fee, and the grant was confirmed by Richer's successor Anselm (MS. Cott. Galba, E. ii, fo. 56). It was afterwards granted by Abbot Daniel to Robert Picot (fo. 59 b). An original half of the chirograph is preserved in the Bodleian Library (Norfolk Charters, 607), but has never been published.

[10] In 1086 St. Benet held a manor of three ploughlands in Shottesham St. Mary,

in Hecham Elwine Eces 7 quicquid possidet . 7 Edelwold cum dimidia possessione . 7 Elfpricum [*sic*] fratrem eius similiter.[1] Et in Fretone .vi acras.[2] Et in Catefeld dimidiam possessionem cuiusdam domus quam tenuit Bondus . 7 manredam cuiusdam mulieris cum .ii. acris.[3] In Waltona .ii. acras.[4] Et Ulf aufert dimidiam acram terre in Fleg.[5] Egelwy pater Stannardi abstulit apud . . . terram 7 aulam Ringolfi . qui cum abbate perrexit in Denemarke. Et ideo Egelwy illam terram reseysiuit ad manum regis . nunc autem nec rex nec sanctus Benedictus habet Et in eodem tempore seisiuit Lefchild cum terra sua 7 dimidiam manredam Elfredi . 7 dimidiam manredam Snuningi [*sic*] cum suis possessionibus . 7 Scotlande cum sua possessione.[6] Et Godricum presbiterum de Clypesby cum dimidia possessione.[7] Et in eodem tempore ad Reppes seisiuit ipse Egelwinus . Bonde pine 7 alterum Bondum filium Offles 7 Lefchild 7 Wlfmerum filium Sirici 7 Haward filium Tudeles.[8] Et Tukke fabrum apud

which may have extended into Poringland (*D. B.* ii. 217). Already before Domesday many men in this part of Norfolk who had once been dependents of St. Benet had passed under other lords. Four free men in Shottesham, formerly belonging to St. Benet, were annexed to Roger Bigod's fee (ii. 185 b). Three free men and five sokemen of St. Benet were held by Walter Giffard in right of Bodin his *antecessor* (ii. 242 b). Walter also possessed one of St. Benet's sokemen who had been worth 2 *oræ* (ii. 243). But it is probable that the encroachment recorded in the text is later than Domesday.

[1] Potter Heigham in Happing hundred, to which this entry relates, was presumably included in the Domesday description of St. Benet's manor of Ludham. It is to be distinguished from Heigham by Norwich, which also belonged to St. Benet. The only explicit reference in Domesday to Potter Heigham records that Godric of Heigham holds two free men with two acres who are worth two pence (ii. 272 b). There is nothing to connect these men with either Roger Bigod or St. Benet.

[2] Fritton between Ludham and Potter Heigham is doubtless included in the Domesday account of the former place.

[3] Nothing is definitely assigned by Domesday to St. Benet in Catfield. A berewick there was annexed to Roger Bigod's manor of Sutton (ii. 179 b).

[4] This place is now represented by Walton Hall, a mile north of Ludham, of which manor it probably formed a part.

[5] The Fleg of the text covers the hundreds of East and West Flegg, in each of which St. Benet possessed considerable estates.

[6] The Egelwy of the text is certainly identical with Alwi of Thetford, Roger Bigod's *antecessor* in many places (below, p. 233). The name of the place in which Ringulf's land lay was probably illegible when the present memorandum was copied into the cartulary of St. Benet. It may, however, be identified with Oby in the hundred of West Flegg, where Stanhard, Alwi's son, held of Roger Bigod in 1086 thirty acres which a free man named Ringulf had held in King Edward's time (*D. B.* ii. 174 b). Six free men with thirty acres were Stanhard's tenants annexed to this property in Oby; the four men named in the text are probably included among them. Roger Bigod claimed these men in virtue of the king's gift, and asserted that they belonged to the fee of Alwi of Thetford, his predecessor. St. Benet still possessed a manor in Oby to which ten free men belonged through commendation. Another free man with twenty-three acres in Oby is the subject of separate entry under St. Benet's fee (ii. 216 b, 217). Stanhard son of Alwi encroached further upon this estate after Domesday (below, p. 228, n. 4).

[7] Roger Bigod held by the king's gift a free man of St. Benet in Clippesby and two free men of St. Benet in Ormesby. Alwi had held these men at some period between the Conquest and 1086; Stanhard was Roger's immediate tenant at the latter date (*D. B.* ii. 174 b).

[8] The holdings of seven free men in Repps, four of them St. Benet's men, two of

Askeby 7 Estan cum sua possessione.[1] Et apud Sumertonam abstulit ipse .E. dimidiam manredam Anundi cum dimidia possessione.[2] Et filius Egelwy[3] Stannardus post abbatis Alfwoldi obitum apud Burch triginta acras de terra Eluiue . et tres manredas abstulit cum suis possessionibus.[3] Et apud Ouby abstulit ipse S. domum Leofchildi 7 dimidiam possessionem eius.[4] Et apud Tyrne dimidium possessionis Ulfketeli 7 .iiii. toftas terre quas ei Alfwoldus abbas accommodauit.[5] Et postquam abbas Richerus abbaciam suscepit aufert ipse .S. in Ouby Aileue cum dimidia possessione . 7 unam acram que pertinet ad aulam de Askeby.[6] In Askeby Wlfmerum filium Tukke cum tribus acris terre 7 unam manredam Edwini cum familia sua.[7] Et apud Saxlingham Iuo de Verdun aufert

them Alwi's men, and one a man of Bishop Almar, were held in 1086 by Stanhard of Roger Bigod (*D. B.* ii. 174 b). The hundred also bore witness that an unnamed man of Roger Bigod seized half a free man of St. Benet, who is included among seven free men in Repps and Rollesby annexed to Roger's manor of Sutton (ii. 174). St. Benet's fee still included the holdings of six free men in Repps (ii. 217).

[1] There is nothing in Domesday to connect Alwi of Thetford with Ashby. It is, however, probable that Tukke and Estan are included among the six free men annexed to the estate in Oby which Ringulf had formerly possessed and Stanhard held of Roger Bigod in 1086 (*D. B.* ii. 174 b). St. Benet held a manor in Ashby which included thirteen sokemen (ii. 216 b).

[2] Roger Bigod claimed that the king had given to Alwi his predecessor a free man in Somerton with twenty-one acres (*D. B.* ii. 174 b). This free man may have been the Anund of the text.

[3] Abbot Ælfwold died on 14 November 1089. Stanhard's encroachments are therefore subsequent to Domesday. The property in Burgh St. Margaret of which Stanhard dispossessed St. Benet may be identified with a small estate comprising thirty acres of arable, four acres of meadow, three *bordarii*, and a demesne team assigned by Domesday to the abbey in Burgh (ii. 217). An important writ of William II commands that St. Benet's abbey and Raunulf the monk be put in seisin of, among other property, thirty acres and three bordars in Burgh (*Mon. Ang.* iii. 86; Davis, *Regesta*, no. lxxx). As this writ was issued after the death of Abbot Ælfwold, the identity of the thirty acres and three bordars to which it relates with the thirty acres and three *manredae* of the present text is hardly open to question. As, moreover, the writ expressly states that the property is assigned to St. Benet in the king's *breve* which are in his treasury at Winchester—that is, in the returns to the Domesday inquest—it follows that the word *manredae* is used in the present text to cover men who are described in Domesday as *bordarii*. The identification is valuable for its bearing upon the condition of the class of cottagers in East Anglia, for it shows that they, like the higher peasant classes, were bound to their lords by the tie of homage.

[4] Above, p. 227, n. 6.

[5] St. Benet held a manor of one ploughland in Thurne which included ten sokemen with forty-five acres (*D. B.* ii. 216 b). In 1086 Stanhard son of Alwi held under Roger Bigod in Thurne half a free man with twenty-one acres under whom there held one free man with four acres (ii. 174 b). Stanhard's tenure is probably explained by an entry in the list of Norfolk *invasiones* (ii. 277 b): 'In Turna i liber homo sancti Benedicti commendatione tantum xliii acrarum, et fuit exlex, et quia Aluuius fecit illegem habet dimidium terrae, in feudo Rogeri Bigot. . . .' It is a curious entry, and its interpretation is difficult. But it may be suggested that this free man, after his inlawry had been secured by means of Alwi, returned to occupy half his original holding under St. Benet. In that case he may be identical with the Ulfketel of the text, and the half of his tenement which remained to him may have been annexed by Stanhard, Alwi's son, at some time subsequent to Domesday, perhaps upon Ulfketel's death.

[6] Above, p. 227, n. 2.

[7] Above, p. 227, n. 6. Wulfmer *filius Tukke* was probably the son of Tukke the smith of Ashby.

quinque sokemannos . scilicet . Colsweyn . Langebeyn . Trumwine . Stannard . Anund . 7 hos homines abstulit post mortem . Alfwoldi abbatis dum monasterium esset sub manu regis.[1] Et apud Multone aufert ipse .I. unam toftam cum segete . 7 de tofta ecclesie dimidiam acram . 7 de altera tofta dimidiam acram. Et apud Waketone auferunt prepositi eius Coleman 7 Wlricus . in hoc anno partem nemoris que ad nos pertinet . 7 partem nemoris ad Aselaketonam . aufert ipse .I. 7 homines illius.[2] Apud Tybenham aufert Walterus Canut .ii^{as}. toftas 7 quicquid ad illas pertinet. Et cum quidam noster homo uellet domum transferre sicut uicini fecerunt . scilicet Ringolf uenit ipse .W. 7 procidit lingna [*sic*] 7 artiffices [*sic*] uerberauit . 7 domum edificare [*sic*] prohibuit.[3] Et iterum de Colesrode aufert quantum homines de uilla cognoscunt.[4] Et preter hec partes terre apud Antingham homines Rogeri . Gouti 7 socii sui auferunt quartam partem pasture qua fodiuntur turue.[5] Et in Stalham Rodbertus Dulum [*sic*] aufert sextam partem pasture 7 nemoris.[6]

At the time when the memorandum was written Norfolk was still a county *sub lege Danorum*. It is therefore natural that there should be a distinct Scandinavian element among the personal names which occur in the memorandum. It is much smaller than the Old English element, but it has a distinctive character. The names Gouti, Howard, Langebeyn, Ringolf, Anund, are rarely found in documents which relate to the Northern Danelaw. Bond or Bonde, one of the commonest native personal names in twelfth-century Norfolk, is rare in Lincolnshire. The names which occur in other portions of the register of St. Benet's produce the same impression. The Anglo-Scandinavian personal names which survived into the twelfth century form an immense mass of material upon which little work has been done as yet. But

[1] Domesday assigns to St. Benet an estate in Saxlingham which Edric, a free man of Archbishop Stigand, had given to the abbey in pledge (ii. 217). It had already suffered encroachment between the Conquest and the date of Domesday; in King Edward's time there had been nine sokemen upon it, in 1086 there were five. As the encroachment attributed to Ivo de Verdun must have been made in or soon after 1089, it is highly probable that the five sokemen whose names are given in the text are the identical five sokemen who still remained under the abbey in 1086.

[2] Moulton, Wacton, Aslacton, and Tibenham are adjacent villages in Depwade hundred, south-south-west of Norwich. The only estate assigned to St. Benet in this hundred is a manor of Tibenham (*D. B.* ii. 221). It was not a large manor, but it may well have included tofts in Moulton and wood in Wacton and Aslacton. In 1086 the fee of Roger Bigod extended into all three villages. There is nothing in Domesday to connect Ivo de Verdun with any of them, but he afterwards gave two-thirds of his tithes of Moulton to Thetford priory (*Mon. Ang.* v. 141).

[3] On the last folio of the Norfolk Domesday Walter Canud is assigned the fifteen-acre holding of a free man in Tibenham, because Walter's predecessor had received it in pledge in King Edward's time.

[4] It is difficult to identify this place, which is not mentioned in Domesday. It presumably lay near Tibenham.

[5] In 1086 Roger Bigod possessed a manor at Suffield, adjoining Antingham on the south-east. There was also land of his fee in Antingham itself (*D. B.* ii. 184 b), and St. Benet held a manor there (ii. 216).

[6] St. Benet possessed a manor of one ploughland in Stalham (*D. B.* ii. 220 b).

the suggestion may be hazarded that it may be possible ultimately to establish differences between the personal nomenclature of the several parts of the Danelaw which go back to the settlement of the ninth century itself.

Unlike Domesday, the present memorandum deals with individuals, not with classes of men. In two passages it speaks of *sokemanni*, but for the rest it tells nothing of the rank or status of the peasants to whom it refers. Nevertheless it provides valuable material for comparison with the terminology of Domesday. In particular, the word *manreda*, a Latin form of the Old English *mannrædenn*, 'homage', is interesting in this connexion. The word is used in the Old English Chronicle as late as the annal for 1137, but it does not seem to have been noticed in any private document written after the Norman Conquest.[1] The act of homage was the essential feature of the transaction by which a free man placed himself under the authority of a superior, and the present text suggests very strongly that *mannrædenn* was the English word which the clerks who wrote the East Anglian Domesday represented by *commendatio*. The following writ issued by Earl Ralf of East Anglia shows that the word was current in that region before the date of Domesday:

> Radulphus comes E. presbitero 7 omnibus baronibus de hundredo salutem. Sciatis me dedisse Grim capellano meo manredam Askitelis 7 quicquid tenet in Walsham cum sache 7 sokne 7 omni consuetudine 7 ingang 7 utgang ad opus ecclesie sancti Benedicti de Hulmo sicut egomet melius habui. Valete.[2]

This writ, which is probably translated from an Old English original, anticipates the numerous private charters which record the grant of a tenant's homage and land. The phrase 'manredam Askitelis et quicquid tenet' explains the more difficult 'tres manredas abstulit cum suis possessionibus' of the memorandum. The 'possessiones' are the tenements of the men whose homages were withdrawn from the abbey. It may also be noted that the phrase 'manredam Edwini cum familia sua', which occurs in the memorandum, anticipates the occasional twelfth-century charter formulas which convey to a third party 'homagium X cum sequela sua'.

In several passages the memorandum states that the abbey has lost half the manred of this or that individual. It is clear from the East Anglian Domesday that a man's commendation might be divided between two or more lords.[3] There has been preserved a copy of the writ by which the Confessor consents

[1] See the quotations in Bosworth-Toller, *s. v.*

[2] MS. Cott. Galba, E. ii, fo. 35 b. Earl Ralf had soke over St. Benet's land in South Walsham T. R. E.

[3] Vinogradoff, *English Society in the Eleventh Century*, p. 423.

that Ælfric Modercope may bow to the two abbots of Bury St. Edmunds and Ely.[1] In other cases the division of a family inheritance might lead to a partition of the profits derived from the homage, the *commendatio*, of free tenants.[2] The language of Domesday proves that such partitions were, in fact, made,[3] though it is difficult to find early documents which illustrate them. One of the earliest records in the register of St. Benet's shows the abbot, as lord, dividing an estate with the *manredae* of the tenants upon it between three claimants:

Hec est conuencio que facta est ab abbate Richero inter Edricum 7 sororem 7 nepotem Goduuini monachi de terra apud Felmingham que pertinet ad candelam . reddens per annum .xxv. solidos. Partita est tota terra illa cum manredis eiusdem terre in duo . et accepit Edricus unam partem unde dabit per annum .xii. solidos 7 vi. denarios ad hos terminos . ad festum sancte Marie candelarum .iiii. solidos 7 duos denarios . ad pentecosten .iiii. solidos 7 duos denarios . et ad natiuitatem sancte Marie . quatuor solidos 7 duos denarios . Soror quoque 7 nepos Godwini acceperunt alteram partem terre . unde totidem solidos 7 totidem denarios dabunt ad candelam 7 ad eosdem terminos. Si reddiderint 7 conuencionem seruauerint: scilicet Edricus 7 soror 7 nepos Godwini: in pace teneant. Quod si non fecerint . tollatur ab eis terra. Testimonio domini abbatis Richeri . 7 Godwini monachi . 7 Gilberti monachi . Hermanni dapiferi 7 fratris eius Walteri . Roberti balistarii 7 filii eius Odari etc. Hec conuencio facta est apud hundredum de Walsham.[4]

The personal character of the relationship between lord and man expressed in the ceremony of homage explains the general character of the *invasiones* recorded in the memorandum. The lands of the abbey had suffered encroachment, though not to any very serious extent. The heaviest losses which the abbey had sustained consisted in the withdrawal of the homages and services of its tenants. It does not seem to have been difficult to induce or compel a man to do homage to a new lord without his former lord's consent. It need not be assumed that this withdrawal was always in defiance of law and custom. There is little doubt that most of the men of whose loss the memorandum complains were personally free—sokemen or *liberi homines* rather than villeins. They or their ancestors may well have enjoyed the liberty of choosing a new lord at their own will.

[1] Thorpe, *Diplomatarium*, p. 416. It is, at the least, a remarkable coincidence that at Starston, Norfolk, in 1066, there was a free man common to the abbots of St. Edmunds and Ely (*D. B.* ii. 125 b; *Vict. County Hist., Norfolk*, i. 54).

[2] Maitland, *Domesday Book and Beyond*, p. 74.

[3] As different men would pay different sums to their lord as an acknowledgement of his superiority, the common method of dividing the *commendatio* of a group of tenants between two persons must have been to divide the profits of each tenant's *commendatio* equally between them.

[4] MS. Cott. Galba, E. ii, fo. 54. The small estate which St. Benet possessed in Felmingham, worth twenty-one shillings in 1066, is described in *D. B.* ii. 219.

Of actual violence there is little trace in the memorandum. The assault which Walter Canut made on Ringolf of Tibenham when he wished to move his house to a new place stands alone, and should not be taken as evidence of an unsettled state of society. Such episodes might occur at any time. They are often recorded upon the plea rolls of the thirteenth century.

Encroachments of the kind described in the memorandum were not confined to the period which followed the Norman Conquest. Early in the reign of Henry II Abbot William II obtained a writ commanding him to do justice between his church and one of its tenants who was deforcing it of lands in the hundreds of Flegg. The substance of the writ is entered by a later hand at the foot of a page in the register. It was copied with little care, and its text is imperfect. But judicial writs issued before 1168 are not common, and this example has value as an illustration of social conditions :

Memorandum quod dominus rex Henricus misit breue suum abbati Willelmo sub hac forma. Precipio quod plenarie rectum teneas ecclesie sancti Benedicti et monachis de Hulmo de Richardo filio Hugonis qui iniuste eis terras suas difforciat in Fleg et eas sine ullo seruicio tenet . terram . scilicet . que fuit Stannardi diaconi . xxv acras in campo et in marisco . octo acras . terram Swalegot . viii acras in campo et ii. in marisco . terram Wluan . iiii acras in campo . et .ii. in marisco . terram Laui . vi. acras . in campo et ii in marisco . terram Alfrici stein . ii. acras in campo et dimidiam acram terram Snuning [*sic*] . i. acram et i. percam infra nemus iuxta domum suam .iii. acras et super terram illam est unum horreum et omnes alie domus que sunt in curia preter aulam et solarium Et ⟨de⟩ dominio abbatis triginta acras et dimidiam et in marisco de Ouby . xl acras Et in Burc de terra Bertelot .lx. acras in campo et .x. in marisco Et in Sumertona et in Wyntertona .xvi hominia et lvi acras in campo et viii. in marisco . terram Eluuis [*sic*] nonne .xl acras in campo et vi. hominia [*sic*] . terram Goche in Clepesby . unam acram in campo. Et si non feceris etc.[1]

The resemblance between the encroachments of Richard son of Hugh and those which are recorded in the memorandum is curiously close. There is the same subtraction of small parcels of land and the same withdrawal of tenants' homage. There is no doubt that the *hominia* of the writ represent the *manredae*

[1] MS. Cott. Galba, E. ii, fo. 63. The suit seems to have been ended by a compromise. The register, fo. 60, includes a copy of a charter by which Abbot William granted to Richard son of Hugh of Clippesby the service of Stannard the deacon's land in Clippesby, two acres in the same village, an acre in Repps, two parts of the meadow in Webfen, four other acres in Clippesby, and all the tenements which Richard's father had held of the abbey in Flegg. Richard on his part released to the abbey his claim to its land in Waxham and agreed to pay three shillings a year for the property described in the charter. The charter is probably later than the writ which has just been printed.

of the memorandum. It is an important social fact that St. Benet could still claim the homage of twenty-two tenants in the two villages of Somerton and Winterton. In this corner of Norfolk, at any rate, manorial discipline had not yet superseded the ancient bond of homage, with all that it implied of the tenants' original independence.

It is clear from the memorandum itself that the encroachments which it records were not entirely the work of Roger Bigod and his Norman followers. They had begun before Roger can have entered into full possession of his Norfolk fee. Alwi of Thetford, the Egelwy of the memorandum and one of the wealthiest *antecessores* of Roger Bigod in Norfolk, had undoubtedly filled some official position in that county in the years immediately after the Conquest. The Norfolk Domesday contains several passages which suggest that he may once have been sheriff, though he is never addressed in that capacity in any writ of William I. It was obviously in process of law that he seized the land of the fugitive Ringolf of Oby, and some of the other encroachments which are ascribed to him may be explained in the same way. In the confusion which followed the Conquest the distinction between the land of Alwi's inheritance and the land which he seized to the king's use might easily be blurred.

In a different connexion, the memorandum supplies a fragment of new evidence relating to the time which immediately followed the Conquest. The Abbot Alfwold of the memorandum was ruling at St. Benet's already in 1066. He is the Abbot Alwold to whom King Harold entrusted the defence of the coast in that year.[1] John of Oxnead, the thirteenth-century monk of St. Benet's, who records this fact, goes on to relate that the abbot suffered tribulations from the Conqueror, but returned to his abbey, and died on 14 November 1089. William of Worcester, writing in the fifteenth century, states that the abbot received the custody of Norfolk from Harold, fled into Denmark, and never returned to England.[2] On the question of the abbot's return the evidence of John of Oxnead is to be preferred. The precision of his chronology makes it certain that Ælfwold was still abbot of St. Benet's at the accession of William II. He was present at the great inquest of 2 April 1080 concerning the liberties of the church of Ely.[3] It follows that he is the abbot, unnamed in the memorandum, with whom Ringolf of Oby fled into Denmark, and Ælfwold of St. Benet's may be added to the list of Englishmen who after the Conquest sought for a time the court of Swein Estrithson.

[1] Freeman, *Norman Conquest*, iii. 717.
[2] *Itinerarium Willelmi de Worcestre*, ed. Nasmith, p. 348.
[3] Davis, *Regesta*, no. 122.

The abbot's return is implied in a charter granted by one of his successors named William, probably William I, 1127–34:

Notum sit presentibus 7 futuris dei fidelibus . dompnum abbatem Willelmum 7 monachos ecclesie sancti Benedicti de Holm in communi capitulo dedisse 7 concessisse Petro camerario quecumque fuerunt Egelwardi de Houetone[1] in eadem uilla silicet [*sic*] Houetone 7 in North Walsham . uel in aliis locis . in terris 7 homagiis . in pascuis 7 pratis 7 moris . in bosco 7 plano 7 in omnibus rebus 7 consuetudinibus quas idem Egelwardus unquam [*sic*] melius habuit una die 7 una nocte tempore Afwoldi abbatis. Ita ut nemo ex eisdem rebus aliquid habeat nisi per ipsum . set libere 7 quiete teneat omnia illa in feodum ipse Petrus 7 heres eius in perpetuum reddens inde singulis annis celerario octo solidos ad mensam fratrum pro omni seruicio tribus competentibus terminis . ad festum sancti Edmundi tres solidos . ad pascha duos solidos . octaua die ante festum sancti Benedicti in estate tres solidos. Huius donacionis sunt testes Adam dapifer. Richerus de Ouby etc.[2]

The Abbot Afwold of this document can be no other than the Alwold of John of Oxnead and the Athelwold or Alfwold of the memorandum. The reference to his abbacy as a note of date is important. It suggests, what is borne out by many documents in the cartulary, that, *invasiones* apart, the condition of St. Benet's free tenants underwent little serious change under the Norman kings. The following charter, for example, shows a tenant of native ancestry receiving between 1153 and 1168 land under the conditions which had governed its tenure for the previous two generations:

Sciant presentes 7 futuri fideles dei quod ego secundus Willelmus dei gracia abbas ecclesie sancti Benedicti de Hulmo communi consilio 7 uoluntate tocius capituli nostri concessi 7 dedi in feodo 7 hereditate Ricardo clerico totam terram aui sui Brictnod 7 Hagene patris sui in Burwde[3]. 7 insuper totam terram Swartingi in eadem uilla . quam emit ab heredibus illius terre saluis consuetudinibus ad aulam de Neteshirde[3] pertinentibus. Has uero terras habebit 7 tenebit predictus clericus Ricardus 7 heredes sui libere 7 quiete in campo 7 prato 7 in turbariis sicut unquam predecessores sui eas melius 7 liberius tenuerunt in uita sua . 7 eisdem consuetudinibus. Huius concessionis 7 donacionis sunt testes . Philippus capellanus . Willelmus presbiter de Neteshirda . Henricus medicus de Bolwyc . Richerus filius Odonis . Nicholaus miles de Tyrna . Henricus de Stiuekeswrde . Simundus de Ludham . Hugo de Rollesby . Haraldus clericus . Wistanus prepositus . Reginaldus filius Wistani . Robertus de Ingham . Petrus filius Stannardi de Waxtonesham 7 multi alii.[4]

[1] Hoveton St. John. [2] MS. Cott. Galba, E. ii, fo. 60 b. [3] Burwood and Neatishead.

[4] MS. Cott. Galba, E. ii, fo. 60. The same impression of continuity is produced by another charter of the same abbot (*ibid.* fo. 60b): 'Ego Willelmus secundus dei gracia abbas ecclesie sancti Benedicti de Hulmo . . . concessi et dedi in feodo et hereditate Henrico filio Asgar totam terram Edmundi prepositi cum filia ipsius herede terre illius sicut parentela eius postulauit. Hanc autem terram habebit et tenebit predictus Henricus iure hereditario . . . sicut unquam melius et liberius eam tenuit predictus Edmundus in uita

The documents in the cartulary make it evident that the payment of a rent in money formed the essential tie between the abbey and its tenants. The greater estates of the abbey were composed of scattered holdings held together by their contribution to a common *firma*.[1] But the tenant was the abbot's justiciable. A charter granted by Abbot Anselm between 1134 and 1140 brings out very clearly the fact that seignorial justice was a privilege to the tenant as well as a source of profit and influence to the lord:

Notum sit presentibus 7 futuris quod ego Anselmus dei gracia abbas 7 conuentus sancti Benedicti de Hulmo . dedimus 7 concessimus Wyther cognomento Turnel 7 suo heredi in feodo 7 hereditate .xii. acras quas Wlmerus de Ristone tenuit 7 unam acram quam Leuinggus cognomento Ludding tenuit in Erpingham hundred. Insuper ei dedimus 7 concessimus totam terram que pertinet ad dominium nostrum de Scothowe[2] in Tunstede hundred pro quatraginta denariis de redditu pro omni seruicio per annum . nec inde placitet contra aliquem nisi in curia abbatis 7 monachorum ubi hec largicio ei facta est in comuni [*sic*] capitulo. Ipse uero Wyther 7 heredes eius post obitum illius dabit singulis annis ad festum sancti Benedicti in estate quatuor denarios ad altare. Huius rei testes sunt . Adam presbiter de Tunsted Osbernus de Redham . Willelmus de Hobosse Eudo de Felmingham . Lambertus de Birkele . Hugo de Estone . Edricus pet Wlricus de Birnesuurde Eche Suetman . Godricus . Lelberd etc.[3]

The examples which have been given are perhaps enough to show the general interest of the early charters in the register of St. Benet's. It would be hard to find a series which illustrates more clearly the dealings of a great East Anglian religious house with its tenants. It is an important fact that these dealings throughout presuppose the existence of the peculiar form of society which is described in the Domesday survey of East Anglia.

F. M. Stenton.

The Text of the Ordinance of 1184 concerning an Aid for the Holy Land

The ordinance dealing with a subsidy for the Holy Land, which purports to have been issued by Henry II and Philip Augustus in 1184, has been edited several times; but our knowledge of the

sua tempore regis Henrici primi . . . pro duobus solidis de censu ad aulam per annum pro omnibus consuetudinibus et seruiciis.' This explicit acknowledgement by a lord that the daughter of a reeve possessed a right of inheritance to her father's land is good evidence of the free condition of men of this class at the middle of the twelfth century.

[1] In the reign of Stephen, Abbot Hugh granted certain land between Runton and Felbridge to Osbert the priest of Thurgarton for twelve pence a year, noting that these twelve pence belonged to the four pounds of Thwaite (fo. 57 b). In 1086 St. Benet's manor of Thwaite had only been valued at forty shillings.

[2] Scottow. [3] fo. 56 b.

text is still unsatisfactory.[1] The different editions present a variety of readings, and, since several editors do not state their sources, it is difficult to fix the relations of the various editions to one another and to the originals. The earliest printed edition is that in the second volume of Spelman's *Concilia*.[2] This volume, although it passes under Spelman's name, was edited by Dugdale.[3] Spelman died in 1641, two years after the publication of the first volume,[4] when he had collected only a small quantity of material for the second.[5] Dugdale, who took up the work only after some delay, did not prepare the second volume for publication until 1664.[6] He contributed the greater portion of the contents through his own researches,[7] but the ordinance of 1184 was among the documents left by Spelman,[8] and so presumably we owe the text to him and not to Dugdale. The source of the edition in Spelman's *Concilia* is not named; and no subsequent editor of the ordinance specified a manuscript as his source until Riley, in 1860, edited the Liber Custumarum, which contains a copy.[9] This compilation was written during the reign of Edward II,[10] probably about 1310,[11] and in 1328 it came into the possession of the city of London. Later it became divided into two parts, and one of these found its way into the Cottonian collection, where it now forms part of the volume numbered Claudius D. ii.[12] Since this is the only manuscript mentioned by an editor and seems to be the earliest copy of the ordinance known to be extant, Riley's edition ought to have settled some of the difficulties of textual criticism. Unfortunately his text contains manifest corruptions, which are in part editorial.[13] Just how far they are editorial, however, the reader cannot decide

[1] Luchaire, in *Rev. Hist.* lxii. 336; Cartellieri, *ibid.* lxxvi. 329, 330; *idem*, *Philipp II*, ii. 16, n. 2.

[2] pp. 115, 116.

[3] Spelman, *Concilia*, ii, dedicatory epistle; Dugdale, *History of St. Paul's*, pp. xx, xxi.

[4] *Dict. of Nat. Biog.* liii. 330, 331.

[5] Life of Spelman prefixed to his *English Works*, edited by Gibson.

[6] This is the date on the title-page, and Dugdale, in the autobiography prefixed to his *History of St. Paul's* (p. xxi), says that it and another work were published 'about' 1666. The assertion of Dugdale's biographer in the *Dict. of Nat. Biog.* (xvi. 139), that the volume was published in 1666 and not in 1664, is erroneous.

[7] Dugdale, *History of St. Paul's*, p. xxi.

[8] Spelman, *Concilia*, ii, dedicatory epistle and table of contents.

[9] p. 653.

[10] Riley, *Liber Custumarum*, introd., p. xii; Cartellieri, in *Rev. Hist.* lxxvi. 330.

[11] Liebermann, *Über die Leges Anglorum Saeculo XIII. ineunte Londoniis collectae*, p. 102.

[12] Riley, *Liber Custumarum*, pp. xi-xiii, xvii-xxiv.

[13] Cartellieri says of his edition (*Rev. Hist.* lxxvi. 329, 330): 'Un autre texte encore, défiguré par des fautes de lecture assez apparentes.' He adds, with some exaggeration: 'Aucun de ces textes ne répond aux exigences de la critique moderne. On devra même dire que le plus récent [i. e. Riley's] est le plus mauvais.'

without reference to the original. An attempt to establish the relations of the several editions by collation with Riley's would, therefore, be fruitless.[14] Since it is desirable that these relations should be determined, I have edited again the copy found in the Liber Custumarum and collated it with other manuscripts and with various printed editions of the document.[15]

The only known medieval texts of the ordinance of 1184 are found in copies of a collection of laws made in the interest of the city of London during the reign of John.[16] The autograph of this compilation is not known to exist. The only contemporary manuscript is now divided into two parts. The first is Codex 174 in the John Rylands Library at Manchester and the second is Additional Manuscript 14252 in the British Museum. This copy of the compilation, however, does not contain the ordinance of 1184. The document which precedes the ordinance in the other copies is the last in Codex 174, and the document which follows the ordinance is the first in Additional Manuscript 14252. Professor Tout, who kindly examined for me the codex in the John Rylands Library, discovered that one folio[17] (or possibly two) had been cut out at the end.[18] The ordinance of 1184 was unquestionably on the missing folio. Of the later copies of the whole or of parts of this compilation only three have the ordinance of 1184. The Cottonian manuscript, Claudius D. ii, which is the one edited by Riley, was written about 1310; the manuscript numbered 70 in the library of Corpus Christi College, Cambridge, was written about 1320; and the manuscript numbered 46 in the library of Oriel College, Oxford, was written about 1330. The Cottonian manuscript is generally the best of the three.

The text of the ordinance given below is taken from the copy on folio 71 of the Cottonian manuscript with slight emendations from the copies found on folio 109 of the Corpus manuscript and on folio 63 of the Oriel manuscript. The first is designated as A, the second as B, and the third as C. No conjectural emendations have been attempted, since one object of the present edition is to remove the difficulties caused by the guesses of previous editors. Extensions of words abbreviated in all three manuscripts are indicated by italics. The capitalization and

[14] I say this after making the attempt. Cartellieri experienced the same difficulty (*Rev. Hist.* lxxvi. 329, 330).

[15] Cartellieri has been insistent on the need of a new edition of this copy (*ibid.* and *Philipp II*, ii. 16, n. 2).

[16] This paragraph, with the exception noted, is based upon Liebermann's thorough studies of the relations of the manuscript copies of this collection in his *Über die Leges Anglorum Saeculo XIII. ineunte Londoniis collectae*, and *ante*, xxviii. 732–45.

[17] This would be fo. 127.

[18] Through the courtesy of Mr. Guppy, the librarian, Mr. Tout was able to have the binding opened.

punctuation of the manuscripts have not been followed, and the division into paragraphs does not appear in the originals. The variants are noted, not only from B and C, but also from the later editions of the document. D is an edition in manuscript found among the collections made by Sir Simonds D'Ewes between 1623 and 1650.[19] It now occupies folios 95 and 96 of the manuscript in the Harleian collection numbered 311. R is Riley's edition of A,[20] S is Spelman's edition of the ordinance,[21] L is Labbe's,[22] and W is Wilkins's.[23] The editions of Hardouin,[24] Bessin,[25] Dumont,[26] Bouquet,[27] and Mansi[28] have been disregarded in the construction of the text, since they were all derived from Labbe's.[29]

The collation, together with the other evidence adduced, establishes as probable the following relationships among the originals and the several later editions. B and C are more closely related to each other than to A.[30] They are probably derived from a common original. A may be derived from the same original, but its variations from B and C make probable the assumption of another original.[31] D is undoubtedly a copy of A. D'Ewes borrowed the Oriel manuscript (C), when it was in the possession of Tate, and made some transcriptions from it,[32] but he also copied documents from a manuscript belonging to Sir Robert Cotton, which was probably Claudius D. ii (A).[33] D has *poterit* [34] in common with B and C, but it is presumably D'Ewes' independent emendation of the obviously erroneous *porterit* of A, since D'Ewes follows none of the other significant variants of B and C. The only other variations of D from A, which are not mere changes of spelling, such as *quae* for *que*, are two scribal errors and three slight emendations.[35] They indicate no connexion between D and any manuscript other than A. D does not appear to have been used by any subsequent editor of the ordinance. Spelman copied A. In his time the part of the Liber Custumarum containing the ordinance was already in the library of Sir Robert Cotton,[36] to which he had access.[37]

[19] *Dict. of Nat. Biog.* xiv. 451-3.
[20] *Liber Custumarum*, p. 653.
[21] *Concilia*, ii. 115.
[22] *Concilia*, x. 1740.
[23] *Concilia*, i. 490.
[24] *Concilia*, vi. 1881.
[25] *Concilia Normanniae*, p. 90.
[26] *Corps Diplomatique*, i. 109.
[27] *Hist. de la France*, xix. 329.
[28] *Concilia*, xxii. 485.
[29] Delisle, *Catalogue des Actes de Philippe-Auguste*, no. 112; Luchaire, in *Rev. Hist.* lxxii. 336.
[30] Below, nn. 81, 83, 86, 90, 97, 98, 110, 116, 132, 136, 139, 142.
[31] See Liebermann, *Über die Leges*, p. 105.
[32] D'Ewes, *Autobiography*, i. 258; Liebermann, *Über die Leges*, p. 101.
[33] D'Ewes, i. 272, 289.
[34] Below, n. 86.
[35] Below, nn. 60, 66, 68, 85, 106.
[36] Cotton had it at least as early as 1607 (Riley, *Liber Custumarum*, p. xviii), and Spelman began his work several years later (Life prefixed to his *English Works*).
[37] *Dict. of Nat. Biog.* xii. 313; liii. 329.

Such departures as he makes from A are his corrections of slight errors in the forms of single words or his slight errors in the transcription of single words,[38] with the exception of his alteration of the title.[39] Two of his variants from A agree with those in B and C. *Poterit* for *porterit*,[40] however, is an obvious emendation, and *Iohanne* for *Philippo* is probably due to a misreading of A.[41] Otherwise his variants are independent of all three manuscripts,[42] and they are of such a nature as to indicate no relation with any other manuscript. The copy in Labbe's *Concilia* was taken from S, though it may have been collated with A.[43] This work, which is usually cited under Labbe's name, was edited by him in conjunction with Cossart. Labbe died in 1667, when only a part of the eighteen volumes had been printed, and the work was continued by the other editor.[44] Volume x, which contains the ordinance, was published in 1671, but the first part had gone to press before Labbe's death.[45] Thus it is not certain whether the document was edited by Labbe or by Cossart. Their edition of the councils is based upon an earlier collection published at the Louvre in 1644,[46] but the ordinance is not found there.[47] It was added, therefore, by Labbe or by Cossart. They divide the document into the same paragraphs as Spelman, and, with alterations of small importance, they have the title found in S but not in A, B, or C. They also preserve Spelman's emendations. Their correction of Spelman's erroneous *Andagavensis*[48] may have been conjectural, and their acceptance of *Iohanne* for *Philippo*[49] may have been due either to their failure to consult A or to their independent misreading of A; but their substitution of *ubi* for *nisi* probably was not made independently of A.[50] They make one emendation[51] and two errors[52] which are not based upon A, B, C, or S. Of the variations of B and C from A they have only the two found in S. Wilkins professes to have taken his edition from Spelman's.[53] He emends three of Spelman's variations from A to make them correspond with A;[54] but he follows the remainder of Spelman's variants, and he makes emendations of S which

[38] Below, nn. 61, 77, 78, 81, 86, 88, 90, 106, 107, 144.
[39] Below, n. 60. [40] Below, n. 86. [41] Below, n. 90.
[42] Below, nn. 61, 77, 78, 81, 88, 106, 107, 144.
[43] Cartellieri, from the comparison of the printed texts alone, concluded that L copied S (*Rev. Hist.* lxxvi. 329).
[44] *Biographie universelle*, xxii. 237.
[45] Le Long, *Bibliothèque historique*, p. 971; Backer, *Bibliothèque des Écrivains*, ii. 561.
[46] The title as given in Brunet's *Manuel* (ii. 211) is *Conciliorum omnium generalium et provincialium Collectio regia*. I have not seen the work.
[47] Labbe, *Concilia*, table of contents.
[48] Below, n. 107. [49] Below, n. 90. [50] Below, n. 97.
[51] Below, n. 148. [52] Below, nn. 61, 130.
[53] *Concilia*, i. 490. [54] Below, nn. 61, 90, 107.

result in radical departures from A and from all other copies.[54] These emendations indicate that he did not use A; and they appear to have been made arbitrarily without reference to any other copy. He has none of the variants found only in B and C. On the other hand, he has one of the few variants found only in D[56] and two of the three emendations of S made in L.[57] W, therefore, may be connected with D and L, though it seems improbable. All the printed copies, therefore, are derived directly or indirectly from A. W. E. LUNT.

Quedam[58] ordinatio de contributione facienda in subsidium Terre[59] Sancte.[60]

Auctoritate[61] litterarum[62] domini pape[63] subnixi,[64] presente[65] et approbante illustri Anglorum rege Henrico, cum baronibus suis, et A. de Summa,[66] legato summi pontificis, episcopi Normannie[67] in suis episcopatibus[68] hoc instituerunt: ut quicunque[69] elemosinam,[70] que[71] ordinata est ad subventionem[72] terre[73] Ierosolomitane,[74] transmiserunt, talem de iniuncta[75] penitentia[76] veniam consequatur:[77] si in penitentia[78] fuerit,[79] que[71] septem[79] annos excedat, trium annorum venia gaudebunt; si in penitentia[80] vel minori fuerint pro criminali, duorum annorum veniam habebunt. Peccata vero, de quibus homo recordari non poterit, omnia relaxant[81] dummodo de contemptu penituerit.[82] Venalia quoque omnia sub tali penitentia[76] condonent, ut[83] unusquisque, qui elemosinam[70] istam solverit, ter in die,

[54] Below, nn. 60; 80, 93, 97, 103, 127, 141, 143.

[55] Below, n. 85. That *facere* is needed to complete the sentence is so obvious that it may have occurred to D'Ewes and Wilkins independently.

[56] Below, nn. 107, 148. [57] *Quaedam*, D, R. [58] *Terrae*, D, R.

[59] *Sanctae*, D, R. D adds *tempore Regis Henrici Secundi*. The heading in S and L, which is given in a note in W, is *Ordinatio DD.* (om. W) *Johannis* (*Ioannis III*, L; *Philippi*, W), *Regis Franciae, et Henrici 2di* (*II*, L) *Regis Angliae, consilio* (*concilio*, W) *Episcoporum, Comitum et Baronum terrarum suarum, de contributione faciendo* (om. L) *in subsidium Terrae Sanctae, a nativitate S. Johannis* (*Ioannis*, L) *Baptistae An. Incarnationis Domini 1184, id est, 31. Regis Henrici secundi* (*id . . . secundi* om. W; anno *MCLXXXIV*, L) *in decem annos.* The heading in W is *Ordinatio Henrici II. regis Angliae, et Philippi, regis Franciae, de subsidio terrae sanctae.*

[60] *Authoritate*, S; *Autoritate*, L.

[61] *litterarum*, W. [62] *papae*, D, R, S, L, W.

[63] To this point B reads:

Quedam ordinatio de contributione facienda in subsidium terre sancte. *Auctoritate litterarum domini pape subnixi.*

[64] *praesente*, D, R, S, L, W. [65] *Summo*, D.

[66] *Normanniae*, S, L, W; *norman*, R.

[67] *episcopatubus*, D. [68] *quicumque*, L.

[69] *elemosynam*, D; *elemosynam*, L, W, R; similarly later in the plural.

[70] *quae*, D, R, S, L, W. [71] *subvencionem*, D.

[72] *terrae*, D, R, S, L, W.

[73] *Ierosolomitanae*, D, R; *Hierosolymitanae*, S, L, W.

[74] *injuncta*, R, S, L, W. [75] *poenitentia*, D, R, S, L, W.

[76] *consequantur*, S, L, W; *consequetur*, R.

[77] *fuerint*, S, L, W. [78] *vii*, B, C.

[79] *poenitentia*, D, S, L, W; *pecunia*, R. W inserts *quae 5 annos excedit* between *poenitentia* and *vel*.

[80] *relaxarit*, B, C; *relaxantur*, S, L, W.

[81] *poenituerit*, D, R, S, L, W. [82] *et*, B, C.

vel in nocte, 'Pater noster' dicat pro salute vivorum semel, pro pace semel, et semel pro requie[64] defunctorum. Tres quoque elemosinas[70] unusquisque[65] tenetur, ut hanc indulgentiam consequatur, si facere poterit.[66] Si vero ea paupertate laborat, ut elemosinas[70] illas facere non possit, ter iterum 'Pater noster' pro consequenda[67] remissione dicere tenentur.[68]

Talis est dispositio ad subveniendum terre[73] Ierosolomitane[69] a domino Philippo,[70] rege Francie,[71] et Henrico, rege Anglie,[72] communi consilio[95] episcoporum et comitum et baronum terrarum suarum approbata, scilicet, quod unusquisque, tam clericorum quam laicorum,[94] qui plusquam centum solidos non habuit,[95] de unaquaque domo quam habuit,[96] ubi[97] singulis diebus ignis consuetudinarie accendetur,[98] II[99] denarios[100] singulis annis usque ad tres annos persolvet. Si vero in mobilibus plusquam centum solidos habuerit, de unaquaque libra in tota terra regis Francie[74] II[101] denarios[102] Proveniensis[103] monete,[104] vel equipollens,[105] et in terra regis Anglie[92] cismarino[106] II[101] denarios[102] Andegavensis[107] monete,[104] et in Anglia unus sterlingus persolvetur usque ad predictum[108] terminum. Qui vero centum libras[109] in terris[110] vel in redditibus[111] habuerit, vel eo amplius, de centum[112] libris[113] XX[114] solidos[115] annuatim dabit.[116] Qui vero in redditibus[117] minus quam centum[112] libras habuerit, de XX[118] libris[120] dabit quatuor[121] solidos,[122] et de XL[120] libris[124] VIII[125] solidos,[126] et ita deinceps vel[127] rationem predictam.[128] Habentes vero mobilia ultra centum[116] solidos iurabunt[129] quod de singulis XX[114] solidis[130] fideliter duos[131] denarios dabunt. De parte mortui que[71] spectat ad eum secundum consuetudinem terre,[73] et unum post, et debet elemosinam[70] pro anima sua facere.

[64] *regimine*, R.
[65] *porterit*, A.
[66] *tenetur*, S, L, W.
[67] *Johanne*, B, C, S; *Ioannt*, L. *Pho* in A looks like *Iohe*.
[68] *Francias*, D, R, S, L, W.
[69] *concilio*, W.
[70] *habuerit*, R.
[71] u', u', u', or n', A; i' or i', B; *in*, C; *nisi*, D, S; *si*, W.
[72] *accende*, B, C.
[73] *d.*, S, W.
[74] *denarii*, D; *d.*, S, W.
[75] *monetae*, D, R, S, L, W.
[76] *cismarina*, D, S, L, W.
[77] *praedictum*, D, R, S, L, W.
[78] *terra*, B, C.
[79] *100*, S, W.
[80] *viginti*, D, L; *20*, S, W.
[81] *dabit annuatim*, B, C.
[82] *C*, B, C.
[83] *l.*, D; *lib.*, S, W.
[84] *s.*, D; *solid.*, S, W.
[85] *lib.*, S, W.
[86] *solid.*, S, W.
[87] *praedictam*, D, R, S, L, W.
[88] *jurabunt*, D, R, S, L, W.
[89] *solidos*, L; *sol.*, S, W.
[90] *II*, B, C, S; *2*, W.
[91] D and W insert *facere* here.
[92] *conservanda*, B, C.
[93] *Ierusalem*, D, L, R; *Jerusalem*, S, W.
[94] *Anglie*, D, R, S, L, W.
[95] *laycorum*, C.
[96] *habuerit*, D, R, S, L, W.
[97] *duos*, D, L; *2*, W.
[98] *duo*, D; *duos*, L; *2*, W
[99] *Provenciensis*, W; *Proven[e]iensis*, R.
[100] *aequipollens*, R, S, L, W.
[101] *Andegavensis*, S.
[102] *lib.*, W.
[103] *redditu*, C; *redditibus*, W.
[104] *l.*, D; *lib.*, W.
[105] *s.*, S, W.
[106] *redditibus*, W.
[107] *20*, S, W.
[108] *IIII*, B, C, D; *4*, W.
[109] *40*, S, W.
[110] *octo*, D; *8*, W.
[111] *ad*, W.

Decima debetur ad defensionem terre [70] Ierosolomitane [132] a nativitate Sancti [133] Iohannis [134] Baptiste [135] anno incarnationis [136] Domini millesimo C^mo^LXXX^mo^IIII^to^ [137] in decem annos, salvo iure [138] *dominorum et ecclesiarum*. Excipiuntur ab ista ordinatione [139] in clericis thesauri et ornamenta *ecclesiarum et* libri et equi et vasa et vestimenta *et* gemme [140] *et* utensilia que [71] cotidianis [141] usibus *et* sibi necessaria sunt; et in militibus equi et arma et vasa *et* [142] indumenta que [71] usibus eorum deputantur. Ad hanc elemosinam [70] colligendam instituentur in singulis *episcopatibus* duo *fratres*, unus de templo *et* alter de hospitali, *et* [143] singulis parochianis [144] illi duo fratres [145] *et dominus* presbiter [146] ville [147] et duo de legalioribus parochianis elemosinam [70] constitutam fideliter colligant [148] et conservabunt.

Law Merchant in London in 1292

In June 1285 the city of London was taken into the king's hands and put under the government of a warden. With his coming, by a series of royal 'establishments', changes were introduced into the procedure of the city courts.[1] We do not perhaps know enough of the period before 1285 to say exactly what was the extent of the changes, but they clearly meant something more than the replacement of the mayor by the warden in the husting and the mayor's court,[2] although perhaps not very much more than the definition or acceleration of developments already long in process. Among numerous and detailed instructions was one which required the warden or the sheriffs to hold a daily court for strangers (*foreins*) and to appoint a deputy if on any day none of them was able to sit, 'issint qe marchauntz foreyns en nul manere soient deslayes'.[3] Nothing is directly said as to the law merchant, but we may presume from the later history of the mayor's and sheriffs' courts that this was the law to be observed, and indeed there was no other devised to secure the expedition required in this court.[4] A court for merchant

[132] *Ierusalem*, B, C, L, R; *Jerusalem*, D, S, W.
[133] *S.*, S, L, W.
[134] *Johannis*, R, S, W; *Ioannis*, L.
[135] *Baptistae*, D, R, S, L, W.
[136] Om. B, C.
[137] *MCLXXXIIII*, B, D; *M°CLXXXIIII*, C; *1184*, S; *MCLXXXIV*, L, W.
[138] *jure*, D, R, S, L, W.
[139] *estimatione*, A; *aestimatione*, D, R, S, L, W.
[140] *gemmae*, D, R, S, L, W.
[141] *quotidianis*, W.
[142] Om. B, C.
[143] W inserts *in*.
[144] *parochiis*, S, L, W. R notes that it should be *parochiis*.
[145] Om. A, D, R, S, L, W.
[146] *presbyter*, D, R, S, L, W.
[147] *villae*, D, R, S, L, W.
[148] *colligent*, L, W.

[1] *Munimenta Gildhallae Londoniensis*, i. 280 ff., 'cestes establicementes,' p. 296; cf. p. 280, n. 1.

[2] See especially 'l'Ordinaunce de Pleder', p. 290, which defines and apparently restricts the jurisdiction of the court of husting.

[3] *Ibid.* pp. 295, 296.

[4] It had already been laid down that tallies were to be proved by law merchant: *ibid.*, p. 294.

strangers was no innovation, for something like it should have been instituted in 1221, as a result of the eyre held before Hubert de Burgh and his fellow justices, in the course of which it was agreed that when the court of husting was not sitting, the mayor and sheriffs, together with two or three aldermen, should sit daily to hear plaints of those 'who are called *pepoudrous*', and who had hitherto been obliged to wait for a session of the husting.[1] It is likely, however, that the sheriffs' court had come to be the sole tribunal for pleas of foreign merchants, for the treatise on the 'Lex Mercatoria', written probably about 1280,[2] which is preserved in the *Little Red Book of Bristol*, knows no other London court where the procedure is governed by the law merchant. Now the books of remembrance of the city of Bristol borrow not a little from the city of London, and it is difficult to avoid the conclusion that this treatise comes also from the mother town. London was very much in the mind of the author who, even if he derived his knowledge of other mercantile courts from practical experience, was certainly no stranger to London courts and London practice. But although he mentions the mayor several times, no reference is made to the mayor's court,[3] nor is there to be found, where we might expect it had it been required, an alternative form applicable to that court; 'coram vicecomite si sit in Londoniis' is the extent of his teaching.[4]

Edward I's 'establishments', however, reinforced perhaps by the Carta Mercatoria,[5] were effective, and in the fourteenth century it is settled practice for pleas of debt and all other personal actions between merchant and merchant to be heard in the mayor's court and to be determined according to the law merchant:[6] in such cases the justices sitting at St. Martin's-

[1] *Ibid.* p. 67.

[2] A date about 1300 has been proposed (*antè*, xvii. 356), but there is nothing in the treatise inconsistent with a date some twenty years earlier. The Carta Mercatoria (1303) is not mentioned, and this may be regarded as giving the latest possible date: but it seems equally inconceivable that the author could have failed to mention the statute of Acton Burnel (1283) had he known of it (cf. *Fleta*, ii, c. 68): he mentions (p. 60) the statute of Marlborough (1267), but no later statute. He knows a King Edward son of Henry, and a King Philip of France. He seems not to know of a warden in London or of the 'establishments' and the procedure laid down by them.

[3] *Little Red Book*, pp. 77, 81, 84, 85. I regard the curious 'Placita coram Maiore, vicecomitibus vel Ciuibus Ciuitatis Londoniarum', &c., in the formula for a letter on p. 85 as an intentional absurdity, like the discrepancies elsewhere between regnal years and years of our Lord.

[4] *Ibid.* p. 59; cf. p. 82. Alternative forms are given (p. 59) for a fair, a town, and a city (other than London).

[5] *Mun. Gildh. Lond.*, ii. 206: 'Item, volumus et concedimus quod aliquis certus homo . . . assignetur . . . coram quo valeant specialiter placitare . . . si Vicecomes et Maior eis non fecerint de die in diem celeris iustitie complementum.'

[6] *Ricart's Kalendar* (Camden Soc.) p. 95. I suggest a date between 1321 and

le-Grand had no jurisdiction in error,[1] the reasons presumably being those of expedition and certainty which underlay the whole conception of the law merchant.[2] The sheriffs for a time retained a concurrent jurisdiction with the mayor's court.[3]

The documents printed below[4] furnish what appears to be the earliest record which has been preserved of a case tried before warden or mayor according to the law merchant.[5] Taken together, the transcript of the proceedings in the warden's court and the memorandum furnished by the warden in justification of the proceedings give us a good deal of information concerning the law merchant as it was administered at the end of the thirteenth century, and they tell us also, what is at least as interesting, the advantages which London merchants and citizens believed they derived from the law merchant.

It will be at once observed that in one important particular the procedure in the warden's court differed from that described in the Bristol 'Lex Mercatoria'. The court is not one in which the merchants are the judges as in mercantile courts elsewhere.[6]

1327 for the treatise on the courts of London which is found here and elsewhere: see *Borough Customs* (Selden Soc.), i. xxxviii, and, for a variant version, *The City Law* (1647). The letter to the king (*Ricart's Kal.*, p. 112) seems undoubtedly to be connected with the eyre of 1321. On the other hand, it is difficult to understand how the passage relating to Southwark (p. 106) could contain no mention of its grant to the city if written after 1327. On this basis there is no difficulty in accepting the statement (p. 93) that the treatise was contained in a book belonging to Henry Darcy, mayor (never recorder) in 1337.

[1] *Ibid.* p. 101. The justices itinerant sitting at the Tower might try mercantile causes: see Assize Roll, no. 546, m. 47d., where the justices taking the London eyre of 14 Edward II are directed to try a case 'secundum legem et consuetudinem regni nostri vel secundum legem mercatoriam'.

[2] It would seem, however, as we might expect, that the Council would afford relief: below, p. 247.

[3] *Mun. Gildh. Lond.* i. 199, 216. This jurisdiction they lost towards the end of the fourteenth century. The Guildhall Liber Dunthorn, fo. 68, contains a record of a case in 1390 removed on the application of the parties from the sheriffs' court to the mayor's court, 'quia eadem querela tangit legem mercatoriam et talis accio tangens legem mercatoriam et precipue inter mercatores extraneos non consuevit terminari coram Vicecomite, set secundum consuetudinem Ciuitatis predicte finiri et terminari deberet in camera predicta [*sc.* interiori camera Gihalde] coram Maiore et Aldermannis noticiam legis mercatorie habentibus'.

[4] The three documents formed a small complete Chancery file, now merged in the modern file which bears the reference Chanc. Misc. 109/1: the individual documents are not yet numbered.

[5] By the 'establishments' the warden was required to keep a roll (*Mun. Gildh. Lond.* i. 291), and presumably the mayor did so before him: but the earliest roll of the mayor's court now preserved at the Guildhall begins in 1297. There are a few notes of earlier cases (not concerning the law merchant) tried in the mayor's or warden's court to be found in Letter Books A and B. The only full transcript from the Court Rolls of earlier date than that now printed appears to be in Letter Book A, fo. 96. This is an action before the warden, 31 July 1291.

[6] *Little Red Book*, p. 70: 'In omni curia mercati singula iudicia reddi debent per mercatores eiusdem Curie et non per maiorem nec per senescallum mercati.'

The warden and aldermen constitute the court,[1] and the warden takes counsel with the aldermen on a point of law just as in similar circumstances in the fair court of St. Ives the opinion of the merchants is taken.[2]

In the year before the London case was tried the merchants at St. Ives had to determine whether one suspected of making a false claim could refuse to put himself upon a jury when he was prepared to wage his law. Their decision was in accordance with the prevailing doctrine that no one could be compelled to put himself upon a jury, and the man duly waged his law.[3] Here the problem is carried a stage further, for both the parties have asked for a jury but not the same kind of jury, and the court, after deliberation, awards that it must be a jury of merchants, as the plaintiff demands: it will not permit the defendant to put himself upon the country.[4] The reason, we may be sure, is that the court is a court for merchants, and there 'the law merchant must be observed unless both parties openly and directly consent to the common law'.[5] The decision, taken with doubt and hesitation, became the settled rule in such cases: a jury was empanelled from passing merchants engaged in overseas trade who were most likely to have knowledge of the matter in dispute.[6] And if one of the parties refused to put himself upon a jury of merchants he would presumably, like Thomas Lucas, lose his case and remain in prison until he had paid his debt. But we do not know with certainty what would have happened to Thomas Lucas if, instead of putting himself upon the country, he had refused to put himself upon a jury at all and had offered to wage his law. It may have been that the court would have overruled him, for even at St. Ives the

[1] The style of the court is, Letter Book A, fo. 96, is 'Coram R. de Sandwico custode Londoniarum, Iohanne de Banquell [*and two others*] Aldremannis'.

[2] Below, p. 249; *Select Cases on the Law Merchant* (Selden Soc.), pp. 44, 90, 91.

[3] *Ibid.*, pp. 38, 44, 45; *Select Pleas in Manorial Courts* (Selden Soc.), p. 136.

[4] Below, p. 249. Curiously enough a few years later, in 1299, we find a jury of merchants called the country: Mayor's Court Roll, B, m. 1: 'Et petunt quod hoc inquiratur per mercatores privatos et extraneos de Civitate, etc. Et Radulphus similiter, etc. Ideo summoneatur patria ad diem veneris proximam sequentem.' By agreement, however, the case goes to arbitration.

[5] *Little Red Book*, p. 66; cf. *ibid.* p. 58.

[6] *Mun. Gildh. Lond.* i. 216. Strictly this applies only to the sheriffs' court, whose jurisdiction appears to have been limited to cases where payment, delivery, or account was expressly to be made in London, a limitation possibly due to the Carta Mercatoria: *ibid.* ii. 206–7. There is no reason to suppose that the procedure in the sheriffs' court was not followed also in the mayor's court in cases tried 'solone le ley marchaund': *Ricart's Kal.*, pp. 95, 101; *Mun. Gildh. Lond.* i. 390. The case recorded in Liber Dunthorn (*supra*, p. 244, n. 3) went to arbitration, no question of a jury being raised, and therefore affords no guidance. In 1436 we have the direct statement that an alternative method of proof is 'per iuratas mercatorum locum exterum vbi res et contractus huiusmodi supponuntur et predictam ciuitatem inveniencium si partes ad hec consenserint': Chanc. Misc. 68/13, no. 395.

choice would seem not to have been left entirely to the parties;[1] and it is perhaps necessary that the doctrine that no man was compelled to put himself upon a jury should not be regarded as applying without reserve to cases under the law merchant. But the point did not arise in this case, probably because a man who could not find sufficient sureties could not find six sufficient compurgators.[2]

A London jury consisting entirely of merchants presents a marked contrast to St. Ives, where a jury was commonly drawn from merchants and neighbours,[3] and we may deduce from the Bristol 'Lex Mercatoria' that the latter was the general practice throughout the country. The suitors in the market or fair court did not consist of merchants only, but of all those as well holding land or residing within the bounds of the city, fair, or town where the court was held,[4] and even neighbours who owed no suit to the court might apparently be required to serve on a jury.[5] With a much larger mercantile community it was possible for London to develop a more specialized form of tribunal; and at a later period this tendency apparently proceeded so far as to exclude from the mayor's court, for the purpose of mercantile cases, those aldermen who did not possess knowledge of the law merchant.[6]

We may ask how it came about that the warden's court exercised jurisdiction in a case where the plaintiff was a German and the defendant not free of the city, while the dispute concerned a bargain made far away at Lynn. But it was a feature of the law merchant that a case might be brought into court concerning a contract that had been made in another place.[7] The fair court of St. Ives clearly exercised jurisdiction in cases concerning transactions in which every act from bargain to the payment of the final instalment of the purchase money took place elsewhere, the parties having no other connexion with St. Ives than their temporary presence at the fair;[8] and even where one of the parties was resident in St. Ives it was not, we may

[1] *Select Pleas in Manorial Courts*, p. 154; *Select Cases on the Law Merchant*, pp. 50, 51, 52.

[2] Below, p. 248; *Mun. Gildh. Lond.* i. 203.

[3] *Select Pleas in Manorial Courts*, pp. 143, 144; *Select Cases on the Law Merchant*, pp. 29, 30, 33.

[4] *Little Red Book*, p. 71. Exceptions were clerks and those of and above the rank of knight. Cf. *Mun. Gildh. Lond.* ii. 207–8.

[5] *Little Red Book*, pp. 70, 71: 'Setoportunum est quod rei veritas . . . inquiratur per probos et legales homines, mercatores et sectatores eiusdem Curie et alios eidem Curie viciniores.'

[6] Liber Dunthorn, fo. 68; above, p. 244, n. 3. By 1436 the mayor and aldermen sitting to determine cases according to law merchant have become 'Curia mercatoria tenta hic in interiori camera Guyhalde': Chanc. Misc. 58/13, no. 395.

[7] *Little Red Book*, pp. 70, 80.

[8] *Select Cases on the Law Merchant*, pp. 62, 65.

be confident, this fact, but the presence of both parties at the fair that gave the ocurt jurisdiction.[1] In the fourteenth century the city authorities would seem to have disliked interfering in a case unless some essential act had or ought to have been performed in London, payment or delivery made or account rendered;[2] and there is preserved a correspondence in 1299 and 1300 with the mayor and the wardens of the fair of Champagne and Brie which points to a reluctance to take proceedings against a foreign subject in the case of a contract executed abroad. After three requests to seize the goods and bodies of certain Florentine merchants to compel payment of a debt and a reply that the debtors had made satisfaction as evidenced by a document under the seal of the wardens of the fair, which the latter repudiate, the mayor finally declines to take action except by special order of the king, inasmuch as the Florentines were not freemen of the city.[3] The international character of the law merchant, if it ever was firmly established in England, was clearly breaking down: even the fear of reprisals which inspired terror in 1292 does not move the city authorities sufficiently in 1300 to execute a request which the theory of the law merchant would seem to make imperative: it is true the reprisals threatened were limited to exclusion from the fair.[4]

Two points remain to be noticed. Of the complaint of the men of the craft (*de officio*), presumably fishmongers, that Thomas Lucas's trickery had stopped all trade at Lynn on the terms customary between merchants, there is no trace in the proceedings in the warden's court: nor, unless we may assume that this was an aspect of the case discussed by the aldermen, is there any trace of the representation of the citizens that unless speedy remedy were given to the aggrieved merchant of Almaine, their own goods might be seized overseas. The endorsement on the last document in the file appears to be an addition made in the chancery when the writ was returned: it is of interest as an early example of a mercantile case being sent for hearing before the council,[5] and as indicating that in the provision of the statute of the Staple which gave jurisdiction in error to the chancellor

[1] *Ibid.* pp. 59, 75.

[2] *Mun. Gildh. Lond.* i. 216; above, p. 245, n. 6

[3] *Cal. Letter Book C*, pp. 59, 64, 76, 77; Delpit, *Documents français en Angleterre*, nos. lxii, lxviii, lxix, lxxi.

[4] Their attitude was perhaps not uninfluenced by the common law. Cf. *Abbreviatio Placitorum*, p. 201 (1291): 'Quod non est consuetudo Anglie quod aliquis respondeat in regno Anglie de aliqua transgressione facta in extranea regione tempore guerre vel alio modo.'

[5] This is, of course, by no means the earliest case. See Curia Regis Roll, no. 115 B, m. 16d., for an action between Florentine merchants and their agent in 1234. The plaintiffs agree 'quod secundum consuetudinem Regni Anglie deducantur et iusticiam habeant'.

and council,[1] there is little more than the formal recognition of an existing practice. H. G. RICHARDSON.

Chancery Miscellanea, bundle no. 109, file no. 1.

A. Writ of Certiorari to Constable of the Tower.

Edwardus dei gratia Rex Anglie, Dominus Hibernie et Dux Aquitanie dilecto et fideli suo Radulpho de Sandwico Constabulario Turris sue Londoniarum salutem. Quia super modo et causa capcionis Thome Lucas capti et detenti in prisona nostra Turris predicte volumus certiorari, vobis mandamus de modo et causa predictis sub sigillo vestro distincte et aperte sine dilacione nos reddatis cerciores, remittentes nobis hoc breve. Teste me ipso apud Westmonasterium xxvi die Ianuarii anno regni nostri vicesimo.

B. Return to the Writ.

Vna causa capcionis Thome Lucas est eo quod homines de officio conquesti fuerunt ipsos recepisse graue dampnum in Nundinis de Lenne occasione empcionis predicti Thome Lucas in Nundinis predictis, eo quod latenter abiuit absque solucione aliqua facta, propter quod nullus mercator extraneus post illud factum nullam vendicionem Ciuibus Londoniarum facere voluerunt antequam in nauibus et domibus suis ad plenum persoluerentur, vocando eos falsos debitores et bona sua maliciose asportantes. Vbi antea per vnum denarium . . possent emisse D. uel IIIIcc li bonorum tantum absque solucione aliqua facta.

Alia causa est quod latitauit in Londoniis et diffugiebat de villa in villam et nichil habuit per quod potuit attachiari nec plegios inuenire potuit per vnum quarterium et plus standi recto conquerentis secundum legem mercatoriam.

Alia causa est quod Ciues querebantur quod nisi festinum remedium super huiusmodi facto factum fuerit quod bona sua in partibus transmarinis poterint arestari quousque predicto mercatori super debitum et eius dampna fuerit secundum dictum suum ad plenum satisfactum etc.

Alia causa est propter famam mercatorum Londoniarum Nundinas et ferias excercentes [*sic*] que multum per factum suum deterioratur et magis possit deteriorari nisi per corpus suum possit iusticiari ex quo nichil habet in exemplum aliorum.

C. Transcript of Proceedings.

Placita coram Custode Londoniarum die Iouis proxima ante festum sancti Hillarii anno regni regis Edwardi xxmo.

Thomas Lucas eo quod non est liber Ciuitatis attachiatus fuit ad respondendum Arnaldo de Grele Mercatori Alemanie de placito quod reddat ei triginta et vnam libras sterlingorum quas ei debet etc. Et vnde queritur quod die Lune proxima ante festum Exaltacionis sancte Crucis anno xixo apud Lenne in Nundinis eiusdem emit ab eo stocfisch' pro xxx.li et centum borda pro viginti solidis, que summa ascendit [*sic*] ad triginta et vnam libras sterlingorum predictas, et vnde predicta stocfisch'

[1] 27 Edw. III, St. 2, c. 21; *Statutes of the Realm*, i. 341, n. 1.

et borda a loco amouisse non debuit quousque mercatori plenarie satisfecerit, idem Thomas noctanter cum mercandisis predictis recessit et abduxit contra voluntatem predicti mercatoris, fugendo [*sic*] vsque Sanctum Botulphum, de Sancto Botulpho vsque Lincolniam, de Lincolnia vsque Houl, et de Houl vsque Londonias, semper promittendo se satisfecisse eidem mercatori, qui ipsum sic prosecutus fuit de villa in villam de predictis triginta et una libris quas ei non dum soluit vt dicit, set eas ei hucusque detinuit, vnde dicit quod deterioratus est et dampnum habet ad valenciam xx^{li} li. Et hoc paratus est etc. Et predictus Thomas venit et defendit vim et iniuriam et quicquid etc. et quod stocfisch' nec bordum [*sic*] ab eo emit in Nundinis de Lenne, sicut ei inponit, per quod teneatur ei in predictis triginta et vna libris nec in aliquo denario, paratus est verificare per patriam etc. Et Arnaldus similiter per mercatores tunc existentes in Nundinis predictis etc. Et loquendum est cum Aldermannis et consulendum super huiusmodi verificacione vsque diem sabbati etc. Et idem dies datus est partibus etc. Ad quem diem idem Thomas recusauit se ponere super mercatores in Nundinis predictis tunc existentes etc. Ideo moratur etc.

Endorsed. Coram Domino Rege et eius consilio per Radulphum de Sandwyco.

The Stamford Schism

THE two following poems must be of the years 1330 to 1334. They are found in Royal MS. 12. D. xi, a formulary that was drawn up at Oxford and contains letters written to and from the university during the years 1330–9; these letters are printed in the first volume of the *Collectanea* of the Oxford Historical Society, but with dates which are now known to be incorrect.

The first of these poems can be dated closely. It was written from Stamford at a time when the king had not yet decided whether the schism was to be allowed. It is therefore earlier than 2 August 1334, when the king forbade the migration from Oxford.[1] Probably, too, it is earlier than 14 May; for it is addressed to Fitz-Ralph (Fy-Rauf), who ceased to be chancellor of Oxford on that day.[2] It is probably of the latter half of April, and it enables us to reconstruct the history of the Stamford schism. Anthony Wood thinks that it began in May 1334; but this poem, which is certainly earlier than 2 August, says that the seceders had already been half a year at Stamford. It is probable, therefore, that they began with the Michaelmas Term of 1333, as Francis Peck guessed in his *Annals of Stamford*. In the Oxford Historical Society's volume[3] is a letter of the university which speaks of the Stamford schism and is dated by the editor 14 February 1334, but is certainly of 14 February 1335, for it

[1] *Calendar of Close Rolls*, p. 330.
[2] Register of Bishop Burghersh, Inst., fo. 264. [3] p. 8.

refers to the new pope who was elected in December 1334. But we have two documents about the schism which probably date from before April 1334. One of them is a petition to the king, printed by Peck[1] from Cotton MS. Vesp. E. xxi, fo. 62; in it the students dwelling at Stamford assert that they have left Oxford because of the disturbances which are, and have long been, there; that they have withdrawn to Stamford 'a estudier & profiter plus en quiete & en pees quils ne soleient faire', and petition the king that they may be allowed to dwell there. From the position of the deed in the manuscript, it is probably later than 23 January 1334. The other deed is a petition,[2] also from Stamford, in which the petitioners ask the king to stop the robberies and evils at Oxford, which are beyond the control of the chancellor and the town, but do not speak of a permanent settlement at Stamford. This may be of the autumn of 1333. There is a third petition,[3] addressed to the king by the masters and scholars of Oxford, asking for his help against the disturbances and grievances at Oxford, lest there should be a sudden dispersion. This may be of the first half of 1333.

In a poem which depends so much upon rhyme and moreover has no punctuation, there is bound to be some obscurity; but Mr. A. G. Little has suggested that it is a taunt addressed to Fitz-Ralph, who in a public speech had wagered his head that the Stamford schism would be stopped in six months. As it had now lasted six months his head was forfeit. As soon as Oxford met for the Michaelmas Term in 1333, there would be a meeting of congregation, probably about or before 15 October, at which the new Stamford university would be discussed. It may be that it was on that occasion that Fitz-Ralph made his rash wager.

The poem may be paraphrased as follows: 'Fertile Fitz-Ralph, who livest in abundance, pour forth other things; let thy pledges be from elsewhere. It is better to leave alone the capital penalty and conviction by such a pledge, for it is cause of evil. While possessions endure, they are as it were a pledge in actuality; but it is not necessary to offer the head expressly. Against Stamford, which is now a place of study, hated by its enemies, thou hast uttered heady words, that we ought to be suppressed, if there is government in the state; thou promisest to thyself that the head shall be removed from here in half a year. What if we persist, and the king and the law allow it? For what the virtue of peace commands is not a crime. It remains to endure what was agreed, and thou wilt pay thy head as a pledge; alas for thy wretched fate; thou wilt then think over

[1] *Annals of Stamford*, book xi, p. 16. [2] *Collectanea*, iii. 133.
[3] *Ibid.* i. 12

what was said before. We are all agreed; wealth will come and wealth will go, but the head that has been cut off will never return (i.e. to Oxford). Thou didst divine and watch the stars while thou wishest to make us toe the mark; thou didst tread us down; now the net is broken; thou didst plant much, but thou art not a true prophet. I reject the blood-stained Ford and the horned Ox; I change my pasture; I welcome a more fertile spot. Beneath the shield of Stamford I prefer to dwell safely, by which I have better thoughts; so by the exchange I gain a noble time.'

Fy-Rauf fecunde, qui rebus vivis habunde,
Res alias funde, tua pignora sint aliunde.
Parcere letali prodest pene capitali,
Et, quia causa mali, convinci pignore tali.
Dum res possesse valeant quasi pignus in esse,
Set caput expresse non est offerre necesse.
In Vada Saxosa, que nunc loca sunt studiosa,
Hostibus exosa, profers quedam capitosa,
Nos debere premi, nisi sint sine remige remi,
Anno sub demi capud hinc spondes tibi demi.
Quid si perstemus, velit et rex lege volente?
Cum non sit facinus, pacis virtute iubente.
Restat pacta pati, capud et pro pignore solves.
Heu miseri fati; tunc dicta priora revolves.
Omnibus est visum; veniet res resque peribit,
Sed capud abcisum per tempora nulla redibit.
Cum divinasti cursus sectando planete,
Sidera servasti, dum nos vis iungere mete;
Nos conculcasti; modo frangitur a pede rete;
Plurima plantasti; non sunt tua verba prophete.
Cum bove cornuto vada sanguinolenta refuto;
Pascua permuto; loca fertiliora saluto.
Sub saxi scuto magis est michi vivere tuto,
Quo meliora puto; sic tempus nobile muto.

The other poem is a paean by the northern party over the death of a southern champion named Fulk; the northern dog has given him a bite, and now he is lying in a loathsome trench, eaten by worms; he was justly punished for his pride and bloodshed; it was a case of death for death; God gives all things according to desert. Where were your allies? Roger, your echo, Herford, Sporman, Wyk and Wymbury? They fled when death was about. Whether you are of the north or the south, such is a fit punishment for such evil doers.

It is unknown who this Fulk was. In the same manuscript is an excommunication issued by the chancellor against those who made a murderous attack upon Magister Fulco de Lucy.

It is probable that he is the man of this poem and that he died from the results of the attack. The date of the poem is uncertain. If Herford is the Thomas de Herford who was one of the beadles in 1326,[1] the date must be not later than midsummer 1332; for Thomas de Herford died in the autumn of that year.[2] It may be pointed out that the beadles were the university police, as far as the university had any police, and in a parliamentary petition[3] which the sheriff of Oxford sent to parliament in 1334 he complains that the chancellor of the university from day to day orders his beadles to deliver to the sheriff northern and southern clerks, committed in the chancellor's court for acts of violence, to remain in the castle prison at the chancellor's pleasure. Possibly Roger was another beadle, for a witness to a deed[4] of 1332 is 'Rogerus le Bedel'. Wyk may be mag. Edward de Wyke who was elected proctor[5] in spring 1333. A certain Alexander Sporman was chaplain of St. Anne's chantry in the church of All Saints in the years 1351–62, and rector of All Saints in the years 1368–83, but this seems to be rather late for the Sporman in our poem. A Thomas de Winnesbury, a married man, owned a house at the north-east corner of Queen's College, and deeds at Queen's College show that he was alive in 1304 and dead in 1341, but there is no indication that he was a beadle.

Fulco vir australis, quem gens laicana colebat,
O non mordebat te, Fulco, canis borealis?
O Fulco, Fulco, spes non fuerat tibi Iesus;
In tetro sulco latitas, quia vermibus esus.
Forsan novisti quid fert elatio mentis;
In famulos Christi sevisti more furentis.
Sanguinis effusor, mutulator quando fuisti,
Ultor et illusor, Dominum cur non metuisti?
Criminis ortator fueras quando potuisti,
Stultus bellator, set cum fastu cecidisti.
Mortis condigna—funus pro funere restat—[6]
In te sunt signa; digno deus omnia prestat.
O cinis ex cinere, quo sint tibi carnis honores,
Egisti temere tot devastando cruores.
Dic ubi Rogerus, Sathane tuus ille satelles,
In feriendo ferus; vellet quod dicere velles.
Herford vexilli lator, dux ille sinister,
Et Sporman belli ductor mortisque minister.
Dic in conflictu finali, quo latuerunt;
Veraci dictu fugerunt, terga dederunt.

[1] *Munimenta Academica* (Rolls Series), p. 116.
[2] *Liber Albus or Book of Wills*, p. 13.
[3] *Rot. Parl.* ii. 76.
[4] Merton deed, no. 2040.
[5] *Munimenta Academica*, p. 128.
[6] Apparently 'funus pro funere restat' is a parenthesis.

Wyk dic quo fuerat, vel dic ubi Wymbyriensis;
Cum mors affuerat, neutrius cernitur ensis.
Ulcio digna dei per tempora longa pepercit;
Demum culpa rei vili te funere mersit.
Seu sis australis, seu tu sis vir borealis,
Talibus est talis congrua pena malis.

There are indications that 1331 was a year of disturbance at Oxford. On 24 October the king issued letters patent [1] to the mayor and bailiffs that if the chancellor should demand their aid for the arrest of malefactors they were to summon the *posse* of the town; and on 25 October he gave letters patent that the sheriff should imprison in the castle those whom the chancellor sends to him, and should not allow their friends to visit them in a multitude.[2] In the spring of 1333 there must have been a more serious disturbance than usual, for on 6 May the king appointed a commission to make an inquiry about disturbances at Oxford.[3]

H. E. Salter.

The Capture of Lord Rivers and Sir Anthony Woodville, 19 January 1460

When Richard, duke of York, and his friends and adherents were scattered by their failure at Ludlow in October 1459, York himself sought refuge in Ireland, but his eldest son, the earl of March, who in less than eighteen months was to be king of England, fled with the earl of Warwick, John Dynham, and others to Devonshire and thence to Calais. As the catastrophe at Ludlow had been due in large measure to the desertion of Andrew Trollope and other members of the Calais garrison who had come over to England with Warwick a short time before, and as Margaret of Anjou had just succeeded in having her favourite, the duke of Somerset, appointed to the captaincy of Calais in Warwick's place,[4] the welcome which awaited the fugitives at Calais was somewhat doubtful. Fortunately, however, Warwick had left his uncle, Lord Fauconberg, in charge of Calais when he went to England, and Fauconberg was so successful in keeping the place loyal to the Yorkists that when Warwick and March reached there on 2 November they were well received.

After the arrival of York in Ireland and of Warwick and March in Calais, there followed some months of watchful waiting on the part of the Yorkists while they matured their plans for another attempt to assert themselves against Margaret of Anjou.

[1] *Univ. Archives* (Oxf. Hist. Soc.), i. 347; it is not on the Patent Roll.
[2] *Ibid.* p. 121.
[3] *Cal. of Patent Rolls*, p. 449.
[4] Rymer, *Foedera*, xi. 436.

and the unworthy men who administered the government for Henry VI. But they were not left to their plotting in peace, as even before their flight Somerset had begun to fit out an expedition for Calais to make good his right to the captaincy, and very soon a royal commission was issued which, stating that the duke of York and his accomplices were endeavouring to stir up an insurrection in Kent, empowered Lord Rivers and the sheriff of Kent to array the Kentishmen and to seize all ships belonging to the earl of Warwick.[1] Acting on this commission, Rivers took possession of a few of Warwick's ships which were lying in the harbour of Sandwich, and if there was any real danger of an insurrection in Kent, it was held in check. On the other hand, Somerset's expedition ended in failure. Warwick turned the guns of Calais on him, and although the duke succeeded in making himself master of the neighbouring fortress of Guines, whose garrison he won over with fair promises, all that he could do after that was to stay at Guines, keep a covetous eye on Calais, and engage in almost daily skirmishes with Warwick which were a good deal more disastrous to him than to his rival. In the meantime, however, Margaret of Anjou was mindful of her friend, and plans were soon made to send Somerset assistance. Lord Rivers and Sir Gervase Clifton were to have charge of the relief expedition, and Clifton's work was to guard the sea while Rivers proceeded to Guines with the reinforcements which, it was hoped, would enable Somerset to take Calais.[2] But again misfortune befell. For Warwick, who had many friends in Kent and more than one citizen of Sandwich with him in Calais, knew of the preparations his enemies were making, and resolved to nip their enterprise in the bud. Two well-known Paston letters tell the story of how the earl sent Dynham to Sandwich and of how Dynham seized Rivers, his wife, the dowager duchess of Bedford, and his son, Sir Anthony Woodville, in their beds and carried them off to Calais, but it has remained for the following inquisition to determine the exact date of the daring raid and also to acquaint us with the names of a number of the men who participated in it.

CORA L. SCOFIELD.

Inquisitions. Miscellaneous, Chancery, file 317.

Inquisicio capta apud Depford' in comitatu Kancie die lune proximo post mensem Pasche anno regni Regis Henrici sexti post conquestum tricesimo octavo coram Iacobo Comite Wiltes', Roberto Hungerford' de Hungerford', milite, Iohanne Fortescu, milite, Iohanne Prisot, milite, Petro Ardern, milite, Willelmo Yelverton', Iohanne Markham, Ricardo Byngham, Nicholao Aysshcton, Roberto Danvers, Roberto Danby, Waltero Moyle, Iohanne Nedeham, et Thoma Thorp', Iusticiis domini Regis ad

[1] *Cal. of Patent Rolls, Hen. VI*, 1452–61, p. 555.

[2] *Ibid.*, Warrants under the Signet, &c., file 1375, 1 December.

inquirendum per sacramentum proborum et legalium hominum de comitatu Kancie de omnimodis prodicionibus, feloniis, transgressionibus et aliis articulis in litteris domini Regis patentibus eis ac aliis inde directis specificatis iuxta formam et effectum earundem factis et ad eosdem [*sic*] audiendas et terminandas assignatis per sacramentum suum. Qui dicunt super sacramentum suum quod Iohannes Dynham de Calesia in partibus Picardie, armiger, alias dictus Iohannes Denham de Calesia in partibus Picardie, armiger, filius et heres Iohannis Dynham, militis, Ricardus Clapham de Calesia in partibus Picardie, gentilman, Thomas Martyn', nuper de Sandewich' in Comitatu Kancie, yoman', Willelmus Hunden', nuper de eadem in eodem Comitatu, taillour, Willelmus Symnet, nuper de eadem in eodem Comitatu, chapman, Simon Shippton, nuper de eadem in eodem Comitatu, marchaunt, Ricardus Mersh, servant, nuper de eadem in eodem Comitatu, yoman', Nicholaus Stokes, nuper de eadem in eodem Comitatu, potecary, Willelmus Elyot de Calesia in partibus Picardie, mercer, Robertus Ioh'nson', nuper de Sandewich in comitatu Kancie, yoman, et Iohannes Creke, nuper de eadem in eodem Comitatu, bocher, ac quamplures alii falsi proditores, rebelles et inimici ignoti Christianissimi Principis Henrici Regis Anglie sexti post conquestum per assensum, preceptum et voluntatem quamplurimorum aliorum falsorum proditorum et inimicorum dicti Regis ignotorum quinto decimo die Ianuarii anno regni dicti Regis tricesimo octavo apud Sandewich' in Comitatu Kancie cum magno numero personarum vi et armis, videlicet, curaces, briganders, lanceis, Iakkes, salettis, deploidibus defensiuis bumblastis ac aliis armis defensiuis et abilimentis guerre ut in terra guerrina, guerram erga dictum Regem suppremum dominum suum contra ligeancie sue debitum falso et proditorie adtunc et ibidem levaverunt et fecerunt quodque predicti Iohannes Dynham, Ricardus Clapham, Thomas, Willelmus Hunden, Willelmus Symnet, Simon, Ricardus Mersh', Nicholaus Stokes, Willelmus Elyot, Robertus Ioh'nson' et Iohannes Creke ac alii falsi proditores et inimici dicti Regis ignoti adtunc et ibidem Ricardum Wydevyll', militem, dominum de Ryvers, per dictum dominum Regem illuc missum pro defencione regni predicti ac pro certis aliis de causis necnon arduis et assiduis materiis ipsum Regem et regnum suum Anglie tangentibus, ac Antonium Wydevyll', militem, filium predicti Ricardi Wydevyll', in pace Dei et dicti Regis ibidem existentem, in manibus suis tanquam prisonarios sicut in terra guerrina contra voluntatem ipsorum domini de Ryvers et Antonii secum detulerunt et acceperunt et eosdem dominum de Ryvers et Antonium per ipsos sic captos abinde usque villam Calesie in partibus Picardie cum eisdem proditoribus et inimicis abduxerunt sicque predicti Iohannes Dynham, Ricardus Clapham, Thomas Martyn', Willelmus Hunden', Willelmus Symnet, Simon Shippton', Ricardus Mersh', Nicholaus Stokes, Willelmus Elyot, Robertus Ioh'nson' et Iohannes Creke ac alii falsi proditores et rebelles inimici predicti dictis die et anno apud Sandewich' predictam destructionem predicti Regis et dominorum suorum tam spiritualium quam temporalium infra regnum Anglie existencium per guerram predictam in dies falso et proditorie per eorum inim[*ic*]am potestatem quantum in ipsis existit voluerunt et desideraverunt in finalem destructionem dicti Regis ac corone et regalie sue necnon contra Regi [*sic*] ligeanciam suam etc.

A Declaration before the Ecclesiastical Commission, 1562

THE following document once formed pages 28–30 of a manuscript volume, perhaps belonging to the ecclesiastical commission of 1562. It illustrates an episode in the life of the second earl of Bedford not recorded in the *Dictionary of National Biography*, but its chief interest is religious. It gives early evidence of the spirit of Elizabethan puritanism and of the growing familiarity of the people with the scriptural phraseology and atmosphere.

W. P. M. KENNEDY.

Bodleian MS. Tanner 50, fo. 16.

The Declaracõn of Elye otherwyse called Ellys Hawle the Carpenters sonn of Maunchester in the counte of Lanc' before the right honorable the . . .[1] of bedford, the right Honorable lorde Clynton lorde great admyrall [of][1] England. the lorde Cobham lorde warden of the syncke ports Sir Am[brose][1] Cave chancellor of the duche of Lanc'. And Sr Rychard Sackfeld treasorer of the queenes Maties exchequer at the Savoy the xviij of June 1562.

I Elye otherwyse called Ellys Hawle the Carpenters sonn of Maunchester in the counte of Lanc' was borne in the yeare of o^r^ lorde god 1502 & contynued in my fathers howse vntill thage of vij yeares at wch tyme I dyffred moche from all my fathers Children, for I was geven to solitarynes abstinence & prayer. and then was brought vp at a howse which is now Mr Gerardes the Queenes Maties Ato^r^ney gen^r^all vntill thaige of xxvij yeares still contynuynge yn my vertuous lyvinge. and savinge yor honors reverences all yn tournynge of the broche & toylinge for my levinge | at wch tyme I toke a wyfe and began to have a covetous mynde in settinge all my hole mynde in worldlye thinges quyte forgettinge my former vertuous lyfe. for in the tyme of Kinge Edwarde the sixte when the great fale of money was so that almoste all occupacõns could scante save them selves from the sustaynynge of losse. I then beinge a drap gott clearlye that yeare & all charges borne the som of v hondred poundes. Thus still lyvinge in my covetous mynd & gatheringe of goodes. One nyght as I laye in my bed studyinge so sore vppon a great accompte that I could not slepe abowt mydnyght I heard a voyce spake vnto me sayinge. Elye thow Carpenters sonn aryse & mak thine accompte quycklye faste and praye for the daye draweth nere. | wch spake these words vnto me thre tymes havinge a lyttle dystance betwene them. | After wch ther apearyd vnto me a light in my chamber so bright that myne eyes could not behoulde yt. ymedyatlye after the which me thought I saw as it weare a veale or courteyne drawne betwene me & the light. wher a non I saw a mann clothed in white havinge fyve woundes bleadinge & so me thought the heavens opened & receyved hym vp compassed aboute w^t^ that bright light. & so saw hit no more at that tyme. Notw^tstanding I estemed that vysyon to be but a dreame or phantasye, still after contynued in my covetous & worldlye affayres almoste altogether neglectinge my dewtye towardes god for which I was not longe after vnplaged w^t^ a sore dysease in my syde as though I had

[1] MS. torn away here.

ben [1] prycked w[t] an hondred dagers so that I was fayne to kepe my bed & could not slepe nor sterr. and thus lyinge in my bed so tormented that I could not slepe. vppon a certeyn nyght abowt mydnyght the same vysyon apeared to me by my bedd syde. all in white lainge an hand vppon my shoulder sayinge. Elye thow Carpenters sonn Aryse faste & praye for thow arte elect & chosen of god to declare & pronownce vnto his people his worde for thy vertuous lyvinge yn thy youthe tyme. & art at this tyme so plaged becawse thow dydest vtterlye forsake godes will & comaũdement & wholelye gave thy selfe vnto the worlde to the wch sayinge I saide lorde I am vnlerned & yf I shuld preach wryte or teache the thinge wch I could not prove. neyther weare agreable to the scryptures I shulde not be beleved. vnto the wch I was answered. wryte of the revelacõn that thow haste sene of baptisme repentaunce & amendment of lyfe. & shew hit to the magistrates & rulers. & that wch thou shalte wryt shalbe putt in to thy hed by the holye ghoste. after the wch sayinge the vysyon depted from me. & I was taken owt of my bed as it were in a tufte of fethers w[t] a worlewynde vp into heaven. wher I sawe o[r] Savyo[r] Chryste syttinge in his royall seate compassed abowte w[t] aungels. Emonges whome me thought I saw one havinge a book in his hand lokinge on yt on asked hym whether the tyme weare com, who answered no | from thence I was caryed into hell. where I saw all the tormentes therof & also a place p[r]pared for me, yf I wolde not amend my corrupte lyfe. & also a place p[r]pared for me yn heaven yf I wolde follow godes holye will & comandmentes. and so was brought in to my chamber ageyne. from whence I was absent two nightes & one daye. in which tyme I was not sene of anye mann in the yearth lyvinge. Since w[ch] tyme I have apparrelled my selfe thus as ye see. & goe wolward to thintent to bringe the fleshe in subiecc̃on to the sowle neyther have I eten at any tyme this yeare & this halfe any fleshe but white meate & to the same yntent & ever sene that tyme have geven my selfe to my former vertuous lyvinge in fastinge & prayinge & ever since that tyme have wrytten & by godes devyne powre coulde wryte although but smale as I pfesce before yor honors all that before that tyme I coulde not wryte. Thus | [2] have I ever since settled my selfe to wryte godes holye wyll and comaundementes and dystrybuted my goodes emonges my kynsmen and pore people makinge polemacõn that yf any mann coulde com vnto whome I ought any thinge vnto for every penaye I wolde make hym dowble amendes. Also sythens that tyme I have wrytten this booke which I have here brought before yow entendinge god wyllinge to delyver the same vnto my prynce before that anye mann do throughlye pvse yt. Neyther have I attayned to this hand by any worldlye meanes. Thus besechinge yo[r] honors all that yf theise my sayinges cann be pvyd false in any poynte, lett me suffer deathe to thensample of all others.

[*In a different hand :*] the same Manne was sett on the pillerye In cheape the [3] xxvj[th] of Juny beynge firydaye wth thys superscription In paper (ffor seducinge the people by publyshynge ffallce Revelacions).

[*Endorsed*] The Counterfet practyce of Ellis Hall of Manchester in Lankeshir the 18 of June 1562 the 4 Eliz.

[1] fo. 16[v]. [2] fo. 17. [3] MS. *the the.*

The Social Status of the Clergy in the Seventeenth and Eighteenth Centuries

THERE has already been much discussion of the passage in which Lord Macaulay some seventy years ago described the social position occupied by the clergy of the church of England in the sixteenth and seventeenth centuries. He wrote that when the church lost its old wealth and splendour at the Reformation,

> the sacerdotal office lost its attraction for the higher classes. During the century which followed the accession of Elizabeth scarce a single person of noble descent took Orders. At the close of the reign of Charles II two sons of peers were bishops; four or five sons of peers were priests, and held valuable preferments; but these rare exceptions did not take away the reproach which lay on the body. The clergy were regarded, on the whole, as a plebeian class; and, indeed, for one who made the figure of a gentleman, ten were mere menial servants.[1]

It was of this passage that Mr. Gladstone wrote:

> Few portions of his brilliant work have achieved a more successful notoriety. It may perhaps be said to have been stereotyped in the common English mind. It is, in its general result, highly disparaging, and yet that generation of clergy was, as we conceive, the most powerful and famous in the annals of the English Church. If we do not include yet earlier times, it is from want of record, rather than from fear of comparison.[2]

Recent historians[3] of the church of England have concurred in Mr. Gladstone's estimate of the general character and ability of the clergy at this time; but there is still room for an examination of Macaulay's statement. If it were true, it would seriously affect the reputation of the cadet members of noble families at the Reformation period, and the gentry of the succeeding century, who are said to have ceased to aspire to Holy Orders because the emoluments had fallen in value. Equally it would redound to the credit of poorer men that they were content to serve for smaller stipends and in a less exalted sphere.

It is, however, greatly exaggerated. The following is a list, admitting of extension, of some near relations of peers who entered Holy Orders during the seventeenth century:

Richard Annesley, D.D. (d. 1701), dean of Exeter, 3rd Baron Altham, son of Arthur, earl of Anglesey.

George Berkeley, M.A. (d. 1694), rector of Cranford, canon of Westminster, son of George, Baron Berkeley.

Robert Booth, B.D. (1662–1730), dean of Bristol, &c., son of Robert, Baron Delamere.

[1] *History of England*, ed. Firth, i. 318.
[2] Review of Trevelyan, *Life of Lord Macaulay* in *Quarterly Review*, July 1876, p. 76.
[3] Wakeman, *History of the Church of England*, p. 380.

George Brereton, M.A., canon of St. Davids, 1672, second son of William, Baron Brereton.

Henry Compton, D.D. (1632–1713), bishop of London, sixth son of Spencer, second earl of Northampton.

Nathaniel Crewe, D.D. (1633–1721), bishop of Durham, second Baron Crewe of Stene.

Samuel Crewe, M.A. (d. 1661), brother of Nathaniel.

Henry Fairfax, D.D., canon of York, rector of Bolton Percy (d. 1665), fourth son of Thomas, first Baron Fairfax.

John Feilding, D.D., canon of Sarum, chaplain to William III (d. 1698), son of George, first earl of Desmond.

Richard Fiennes, rector of Oakley, grandson of William, first Viscount Saye and Sele, and father of Richard, sixth viscount.

Leopold Finch, D.D. (1663–1702), warden of All Souls College, son of Heneage, second earl of Winchilsea.

William Graham, D.D. (1656–1713) dean of Carlisle 1686, and Wells 1704, brother of Viscount Preston.

Denis Grenville, D.D. (1637–1703), dean of Durham, son of Sir Bevil Grenville.

Anthony Grey, D.D., rector of Aston Flamville, succeeded as earl of Kent, 1639.

James Montagu, D.D. (1568–1618), bishop of Winchester, brother of Edward, Baron Montagu of Boughton.

John North, D.D. (1645–83), master of Trinity College and professor of Greek at Cambridge, prebendary of Westminster, fifth son of Dudley, fourth Baron North.[1]

The lists of incumbents and the matriculation registers of colleges and universities clearly show that men of gentle if not of noble birth continued to seek ordination. Nor was Macaulay right in drawing a sharp line between the clergy of the early sixteenth century and those of the period after the Reformation. The striking instances of display in the earlier period belonged to an age when great position demanded a proportionate magnificence. The lower clergy even then were drawn from plebeian homes, some of them coming of villein parentage; and while influential ecclesiastics were frequently of noble, and sometimes even of royal descent, many, like Wolsey himself, were raised by their abilities from a humble origin.

In the later period there is a manifest distinction between the more lucrative and the poorer country cures. The former were held by persons of some eminence, and their rank or comparative wealth commended them to the upper strata of society, to which, in many cases, they already belonged; while the small rustic cures could not provide a good living, and, if held by men of position, were regarded as a subsidiary source of income, the duties being discharged by a curate of little note and

[1] See also Churchill Babington, *Mr. Macaulay's Character of the Clergy*, 1849.

smaller pay. This distinction may be illustrated by reference to the town church of Gillingham, in Dorsetshire, which was held during the latter part of the sixteenth and the whole of the seventeenth centuries by men of note. John Jessop, B.D., who was vicar from 1579 to 1625, was a member of a Dorset county family seated at Chickerell. His brother was a physician resident in the town, and their two recumbent effigies, hand clasped in hand, remain in the chancel aisle. Jessop's successor, Edward Davenant, D.D., treasurer of Sarum, was a nephew of Bishop John Davenant, and his daughters married well, Anne to William Ettrick of Wimborne, gentleman, Margaret to George Solme, esquire, and Katherine to Thomas Lamplugh, who was afterwards archbishop of York. The next vicar, John Ward, D.D. (1679–96), was a nephew of Seth Ward, bishop of Sarum. He again was succeeded by John Craig, 1696–1731, a scholar of some repute, who was in residence till 1723, after which year he was represented by a curate, Gilbert Craig, 1724–7, and later by Robert Edgar. All these men were capable of holding their own socially among the neighbouring gentry, by their attainments, connexions, and the importance of their ecclesiastical preferment. Of Craig, who had been collated by Bishop Burnet to the prebendal stall of Durnford, 1708, and by Bishop Hoadly to that of Gillingham Major, 1726, it is said that he

> was an inoffensive virtuous man, master of a good Latin style, an excellent mathematician, and esteemed by Sir Isaac Newton. Many years before his death he resided in London, expecting to have been taken notice of for his mathematical abilities, but died there in a mean condition 11th October, 1731.[1]

He died intestate, and administration was granted to his son William, 16 November 1731.

Gillingham had several daughter chapelries, and tradition points to William Young, curate of East Stower, as the original of Parson Adams in Fielding's *Joseph Andrews*. Adams is described as serving four churches at a stipend of £23 per annum, 'with which he could not make any great figure, because he lived in a dear country, and was a little encumbered with wife and six children'; and even that position was insecure, as he could not afford to pay for a licence. Though Adams was learned in modern and ancient languages and his constant companion was a manuscript copy of Aeschylus, and though he had a marked sense of his dignity as a priest with cure of souls and was loved and respected by his parishioners, he could not compete socially with Lady Booby, who for his poverty indecently held him up as a laughing-stock to her friends.

[1] Hutchins, *Dorset*, 3rd ed., iii. 647.

The country living of Folke, a small village near Sherborne in Dorset, may now be examined. William Hymerford (Hemerford), rector, who died in 1583, belonged to a family seated at East Coker, Somerset, as early as the reign of Richard II, if not earlier, of which a branch was in possession of the manor—or a moiety of the manor—of Folke in the time of Henry VIII, when Henry Hemerford was escheator of Dorset and Somerset; and one of his daughters, Elizabeth, was married to Thomas Molyns, esquire, of West Hall. The family also intermarried with the Trenchards of Wolveton, Dorset.[1]

Of his successor Walter Chubb, 1583–1614, nothing is known except that he had been curate to Hemerford, but Abraham Forrester, 1614–68 (B.A. Caius College, Cambridge, incorporated M.A. Oxford), married as his third wife Mrs. Joane Paulet, widow, and his grandson, born in 1666, married Bridget, daughter of Henry Seymer, esquire, of Hanford. At a later date, Thomas Curgenven, M.A., rector 1694–1714, had been master of Sherborne School, and his successor, John Martin, B.A., rector 1714–17 (previously vicar of Long Burton and rector of Lillington), was a *persona grata* with the Honourable Mrs. Thynne, of Leweston in that neighbourhood.[2]

These undoubtedly held a good position in the county, and the same may be said of the Highmores of the retired parish of Caundle Purse, where Edward, Nathaniel, Edward, and Richard Highmore, all masters of arts of Oxford and descended from a gentle Cumberland family, held the benefice in succession from 1603 to 1717, the second of the name being the father of a distinguished anatomist, Nathaniel Highmore, M.A., D.M.

One of the poorer benefices, Fisherton Delamere, a small Wiltshire parish, was fortunate in having an incumbent, appointed in 1613, who left in the parish register a biographical sketch of his predecessor:

1613 Joel Doughty, clericus, huius ecclesiae vicarius, hos habuisse vitae mortisque gradus testimonio minime dubitando perhibetur.

Patria Cantianus, ex oppido sive vico Marden, parentibus ingenuis, pueritiam in schola Petroburgensi, adolescentiam in Academia Cantabrigiensi, ubi gradum Baccalaureatus est adeptus, exercuit.

Valedicens Academiae ad Australem Hantoniam est profectus; ubi cum Scholae Gratuitae vixerat aliquantisper Hypodidascalus, coniugio sese implicuit, et scholam relinquens, ministerium ingressus, in clientelam Honorandi viri Guilelmi domini Marchionis Winton. est admissus, cuius benignitate hanc obtinuit vicariam, quam cum annos fere septem decem, aerumnarum non immunis, tenuerat, commendavit animam Deo, corpus humo, opes propinquis, locum successori, et placide expiravit decimo nono Octobris: sepultus autem fuit in choro ecclesiae suae primo Novembris.

[1] J. Batten, *South Somerset*, pp. 170–1.

[2] See Plumptre, *Life of Bishop Ken*, ii. 174.

Doughty sprang from *ingenui parentes*, not *generosi*, and his descendants, as the parish registers testify, returned to the cultivation of the soil, some as yeomen, others—for they were a prolific race—as labourers.

Thomas Crockford, Doughty's successor, has left a longer narrative of his own career, which begins: 'Cui proxime in vicaria successi ego Thomas Crockford, patria Bercheriensis, parentela ingenuus.' He was born in October 1580, the last and only surviving son of Richard Crockford, *agricola*, 'ex ingenua Crockfordorum Pepperensium familia prognatus'. He learned grammar 'in choro Templi patrii' under Thomas Baker, B.A., vicar of Dorney in Buckinghamshire. At sixteen he entered the service of John Mockett, lord of the manor of Cronstry in Shiplake, and after two years entered on a course of liberal study, and by the aid of his patron was admitted to Magdalen College, Oxford, in 1597, in attendance upon Isaac Pococke, fellow of the college. In 1602 he came into Wiltshire as schoolmaster at Stockton, where for five or six years he studied under John Terry, M.A., the rector, to whom he acknowledges his great indebtedness. Here also he gained the friendship of two gentlemen by birth, Mr. Topp and Mr. Potticary, by whose favour he obtained the degree of B.A. (8 July 1603) and was ordained deacon and priest, the latter in 1603 by Bishop Cotton of Sarum. He served various neighbouring churches as curate, and on 13 January 1612 he married a lady 'optima parentela generosam, me tamen illamque curis domesticis praematuris implicui; nihil fere habens adhuc certi praeter amicos illos Stoctonienses'. These, however, obtained for him from the marquis of Winchester the living of Fisherton Delamere ('hanc exiguam vicariam'), to which he was inducted 19 November 1613 at the age of thirty-three. He died 26 March 1634/5.

The evidence afforded by an examination of single benefices may be confirmed from the records of a clerical family of repute in Dorset from the time of Elizabeth to that of Charles II. The family of Kelway *alias* Clerke, using at times the single name of Clerke or Kelway indiscriminately, were tenants at Marnhull, under Glastonbury Abbey. William Kelway's will was proved in 1492, in the prerogative court of Canterbury, and George Kelway was still there when Queen Elizabeth granted him a tenement, by copy of court roll, in the fourth year of her reign. At the close of the sixteenth century it was represented by six brothers. Of these,

(1) Roger, of Marnhull, described in his will, proved in 1597 in the prerogative court of Canterbury, as yeoman, was father of Roger, B.A., rector of Todbere, who matriculated from Gloucester Hall 1601, suffered severely at the hands of the rebel army, and died in 1665. He married

Anne, daughter of Richard Bingham of Melcombe Bingham, and was father of a third Roger, B.C.L., of Trinity and Pembroke Colleges, Oxford, who matriculated in 1634, became prebendary of Bishopstone, Sarum, *c.* 1645, died before 1660,[1] and had a son the fourth Roger, B.A., rector of Penselwood 1674–1719, who matriculated from Hart Hall 1664.

The five remaining brothers were all in Holy Orders, viz. :

(2) Thomas, M.A., rector of Ashmore 1608, of Haselbury Bryan 1612, and of Mappowder 1624, who matriculated from Gloucester Hall 1599, and died *c.* 1657. His will was proved in the prerogative court of Canterbury.[2] He had two sons who predeceased him, Thomas, B.A., who matriculated from Christ Church in 1631–2, and William, M.A., Pembroke College, who matriculated from Christ Church in 1631–2.

(3) Nicholas, vicar of Fifehead Magdalen. The will of his widow Agnes, made in 1613, was proved the next year by her four sons, Josias, Thomas, Nicholas, and George, in the prerogative court of Canterbury. The son Nicholas occurs as curate of Gillingham in 1628–9 and 1631, and he was master of Gillingham Grammar School when he married, 1622–3, Cecilia, daughter of Joane Dirdo, widow, of a leading local family (baptized 1594 as daughter of Charles Dyrdo, *generosus*). The son Josias, M.A., who succeeded his father in the vicarage of Fifehead Magdalen, matriculated from Gloucester Hall in 1595–6, aged 16, and was buried at Gillingham 21 June 1621.

(4) William, patron and rector of Ashmore, 1588 (?), matriculated from St. Mary Hall 1577, aged 29. His will was proved 1621–2 in the prerogative court of Canterbury, and he was father of John, rector of Ashmore, 1622.

(5) John, rector of Nether Compton 1579, whose will was proved 1608 in the prerogative court of Canterbury. He left three sons, Nicholas, John, and Thomas. Of these, John, B.A., matriculated from Oriel College 1612, became rector of Nether Compton in 1625, and died in 1631.

(6) Edmund, rector of Buckhorn Weston, 1591, who matriculated from St. Mary Hall 1585, aged 19. His will was proved 1649 in the prerogative court of Canterbury. He had four sons, Nicholas, William, George, and Edmund. Of these, Nicholas, M.A., rector of Stowell, matriculated from Exeter College 1621, aged 18, and Edmund, B.A., rector of Kington Magna, matriculated from Balliol 1632, signed the Subscription Book (Diocese of Bristol) 1 August 1662 as rector, and as schoolmaster 5 August 1662. He was the father of Nicholas, B.A., rector of Milton Malsor, Northants, 1673, who matriculated from Hart Hall in 1664, and Lawrence, B.A., who matriculated from Wadham in 1673, aged 16.[3]

Evidence of unworthy treatment is, however, found in pamphlets such as *A Private Conference between an Alderman and a Poor Country Vicar made Public*, London, 1670. The vicar's dues are represented as being but twenty marks a year, raised by gifts to £15. He is grateful to the alderman of the

[1] See Walker, ii. 65.

[2] See *ibid.*, p. 217.

[3] See also E. W. Watson, *History of Ashmore*, 1870.

dialogue, the best friend he had in the town, for entertainment at his table and 'two shillings a year duly divided into half yearly payments'; but something was expected in return. Some former vicars had been

> so stubborn and self-willed, and so prodigiously proud, that they have made no more reckoning of the mayor and aldermen, than if they had country gentlemen to deal with . . . and . . . if we did not come to the place of hearing within half an hour after they were in their pew (contrary to all duty both to God and man, and what is more, the ancient custom of this town) they would begin prayers.[1]

A more humorous work is *The Grounds and Occasions of the Contempt of the Clergy and Religion*, attributed to Laurence Echard, which ran through many editions. Barnabas Oley, in his reply to Echard,[2] justly protests that poverty so far from being a ground of contempt is a cause of commiseration and honour. He adds, 'I have not observed any one thing (behither vice) that hath occasioned so much contempt of the clergy as unwillingness to take or keep a poor living'. But Echard was no doubt right when he said that landowners not only designed the weakest and most ill-favoured of their children for the ministry, but also made no proper financial provision, leaving them nothing to live on but church preferment. Their land descended to the eldest son, and their money was used 'for to bind out and set up other children' in business.[3]

When Macaulay remarks that 'a waiting woman was generally considered as the most suitable helpmate for a parson', he forgets that such a position was frequently held by portionless ladies of good birth. Two cases may here be mentioned: Marie, daughter of Thomas Elton of Ledbury, served in the household of her cousin, Sir Richard Lucy, knight and baronet, being descended from Sir Edward Aston, father of Walter, Lord Aston of Tixall, by Anne his wife, daughter of Sir Thomas Lucy of Charlecote. She mentions in her will, 1636, 'the quarters wages now due unto me from my Lady', Sir Richard Lucy's wife. The other instance is that of Catherine Willson, *née* Dyer, who represents in a petition to her cousin-german, Lord Cottington, chancellor of the exchequer, that her 'mistress, by a blow struck in her nose, had dejected her fortune in marriage'. Her father, James Dyer, was brother of Lord Cottington's mother, and great-nephew of Sir James Dyer, chief justice of the common pleas.

As would naturally be expected, parish priests and their assistant curates married into their own rank, finding wives among the daughters of neighbouring clergy or in the class from which they themselves had sprung.

[1] pp. 1, 33.

[2] Preface to George Herbert, *Country Parson*, 1671.

[3] pp. 128 ff.

The country gentry, as a rule, had but little ready money at their disposal, but lived upon the rents and profits of their estates in land, and were anxious to secure matrimonial alliances with heiresses for themselves or for their sons, and if the younger sons were not successful in this direction they would either settle down in or near their birthplace as farmers or gamekeepers, or migrate to towns as apprentices to trade.[1] Pope has the caustic lines

> Boastful and rough, your first son is a squire,
> The next a tradesman, meek and much a liar,
> Tom struts a soldier, open, bold and brave,
> Will sneaks a scriv'ner, an exceeding knave.[2]

Sir John Fitzjames, knight, of Leweston (d. 1623) was well-to-do, and a leading county magnate; yet he settled his five younger sons as tenant farmers on portions of his estate, and some years later one descendant, Grace Fitzjames, was married to Hugh Hardy, another, Joane Fitzjames, to John Granger, both of yeoman stock, and a third, Francis Fitzjames, in his old age espoused Sarah Best, who kept the village inn.[3]

Any fall in station which may have happened to the sons of the poorer clergy was, in fact, the common fate of the younger sons or descendants of younger sons of country gentlemen. In Dorset a yeoman family is still found—that of Daubeny—which has an unbroken descent from the Conquest and earlier; and the village of Minterne still retains descendants of a branch of the Napiers (created baronets in 1641) springing from a junior line of the esquire owner at the beginning of the seventeenth century. Thomas Fuller remarks

> that some who justly own the surnames and blood of Bohuns, Mortimers and Plantagenets, (though ignorant of their own extractions), are hid in the heap of common . . . people, where they find that under a thatched cottage, which some of their ancestors could not enjoy in a leaded castle, contentment with quiet and security.[4]

[1] These examples, and many others, occur in the Bristol Apprentice Rolls:
Edward, son of Henry Sidnam of Steeple Ashton, gent., 1651, to a grocer.
Thomas, son of William Baskerville of Garway, gent., 1651, to a soap-boiler.
John, son of Henry Lyte of Lytes Cary, 1653–4, to a woollen-draper.
Knightly, son of Sir Anthony Elmes of Greens Norton, knight, 1657, to a linen-draper.
Robert, son of Robert Minors of Treago, esq., 1668, to a grocer.
John, son of John Harbin of Newton, esq., 1670, to a mercer.
John, son of John Scudamore of Kentchurch, esq., 1680–1, to a merchant.

[2] *Moral Essays*, i, ll. 151–4.

[3] The same Sir John Fitzjames appointed John Wilkinson, parson of Babcary, Somerset, to be one of the overseers of his last will, and bequeathed to him 'so much of finest cloth as will make him a large cloak with sleeves, as ministers do use to weare'. He was commissioned to preach the funeral sermon.

[4] *Worthies*, ed. 1811, I. xv. 45, 'Of Shire Reeves or Shiriffes'.

On the position of domestic chaplains, the object of Macaulay's special attack, some light is thrown by an entry in one of the Long Burton register books. The widow of the Honourable Henry Thynne, a daughter of Sir George Strode, knight,

> was possessed of her father's estate . . . and kept a domestic chaplain constantly at Leweston. These domestic chaplains, for three several successions of them, were vicars of Burton and Holnest, being presented thereto by the proprietor of Leweston, the patron of the vicarage . . . and all of them had their board at Leweston without any expense of washing, horse-hire, coals, candles, &c., and with the privilege of entertaining also at the expense of the house all their visiting friends, with everything which cellar and pantry afforded. In this respectable station lived Mr. Martin [1696–1713], Mr. Chafy [1713–18], and Mr. Wilkinson [1718–25]. Mr. Martin, during his incumbency, was a married man, and his wife usually came to church with Mrs. Thynne, and sat in the pew of Leweston constantly with her.

There were indeed unworthy chaplains, who accommodated themselves to drunken and illiterate squires. Such a one is described in a pamphlet of 1737 : [1]

> a clergyman in the house, who had quite laid aside his sacerdotal character, but acted in several lay capacities, valet de chambre, butler, game keeper, pot-companion, butt and buffoon, who never said Prayers, or so much as said Grace, whilst I was in it, . . . a dirty wretch who seemed to live in defiance of virtue, decency, good manners and clean linnen, [who] was in a measure the first minister and director of the family ; and always mention'd with the familiar appellation of Honest Harry, a merry, good natured fellow as ever broke bread.

Whenever a clergyman of higher character found himself in a parish where the squire was of this type, he had no alternative to social isolation.

The true causes which militated against the clergy in the second half of the seventeenth century would thus appear to be four in number. First was the deliberate desire of many country gentlemen to keep the parish clergy in a state of subservient poverty. Second was the antagonism caused by the restoration of church revenues to their legitimate owners, to the loss of those who had purchased them during the interregnum. Third was jealousy against the clergy who, though poor, had received a university education as good as that of the squire, and were sometimes placed in the commission of the peace ; and fourth, the unwillingness of the parish priest to join in the dissipated carousals of the day.[2] Such an attitude produced a standing prejudice ; but when the parochial incumbent was sufficiently furnished with private or official means, no consideration of rank or birth stood in the way of social intercourse or intermarriage. C. H. MAYO.

[1] *A Short Account of the English Clergy.* [2] See *Short Account*, pp. 26 ff.

Reviews of Books

The Norse Discoverers of America, the Wineland Sagas. Translated and discussed by G. M. GATHORNE-HARDY, F.R.G.S. (Oxford: Clarendon Press, 1921.)

THE conclusion of this treatise is that Thorfinn Karlsefni found Cape Cod; that the Wonder Strands are the New England coast, that Straumsey is Fisher's Island at the mouth of Long Island Sound, which is Straumsfjörðr; and that Hóp is the bay or estuary of the Hudson River. This theory is more likely than any other; distinctly better than Gustav Storm's careful argument identifying Wineland with Nova Scotia. The choice, we may say, is between these two explanations; for this reason, that the evidence requires a northward pointing cape, with water open for exploration on each side of it. There is no such landscape available except at Cape Breton Island, which is Storm's choice, and at Cape Cod, which is preferred by Mr. Gathorne-Hardy.

Storm's argument is very plausible. His diagram showing the relative positions required by the story, and his application of this diagram to the map of Nova Scotia, seem to 'save the appearances', at any rate. The story told in *Eireks saga rauða* can be made to fit.

But Mr. Gathorne-Hardy shows that it does not fit without some forcing. Apart from the problem of the vine, which is not quite at home so far north, and keeping to geography, we are asked for an immense stretch of sandy shore, the 'Wonder Strands', which, briefly, is not there; that defect alone seems enough to refute Nova Scotia. Mr. Gathorne-Hardy meets the eminent Norwegian historian, and gives good ground for rejecting his explanation. His own theory is even better than he knows; it suffers, in his demonstration, from want of proper diagrams and maps. His argument needs one map taking in the whole coast from Cape Cod to the mouth of the Hudson; this is not given; instead of it there are two bits which leave out the Wonder Strands in the middle. It may be remarked here that the treatment of the old map of the Icelander Stephanius is clumsy and cruel, as may be judged by any one who will compare the rough sketch here, p. 290, with Storm's reproduction (*Vinlandsreiserne*, Fig. 2).

After passing the Wonder Strands Karlsefni puts into a fjord. There was an island at the mouth, and very strong currents. Karlsefni made a camp there, or thereabout, and passed the winter. In the spring Karlsefni goes exploring by sea to the south, leaving his base at Straumsfjord, and coming at last to Hóp—where a river runs through a lake (*vatn*) to the sea, with many shoals at the river-mouth. Mr. Gathorne-Hardy quotes here,

aptly, the description of Hudson River 'by its first recognized discoverer Verezzano'—'we passed up this river about half a league, when we found it formed a most beautiful lake, three leagues in circuit.' Thus according to Mr. Gathorne-Hardy, the discoverers knew both Long Island Sound [=Straumsfjörðr], the south coast of Long Island, and the estuary of the Hudson [=Hóp, a very familiar name; disguised as 'Oban', they say, in the Sound of Kerrara].

After this southern exploration Karlsefni went north to discover what he could: he rounded a cape, steering west: if Hóp is the Hudson mouth the cape will be Cape Cod. Here comes a passage which Mr. Gathorne-Hardy thinks corrupt; which on the contrary might be taken as a guarantee of good faith. It is wrongly translated and badly spelt by Mr. Gathorne-Hardy. In Hauk's book, which alone gives the passage in full, it is thus: Þeir ætluðu öll ein fjöll þau, er í Hópi váru ok þau er nú funnu þeir, ok þat stæðiz mjök svá á, ok væri jamlangt ór Straumsfirði beggja vegna. This means, 'They reckoned that the mountains at Hope and those they now had found were all one, and that this fitted well enough, and either way was the same distance from Straumsfjord'. Mr. Gathorne-Hardy translates 'ok þat stæðiz mjök svá á', 'were therefore close opposite one another', which is harder to understand: 'standast á' means to correspond, to fit, and 'mjök' here has its frequent sense of 'pretty nearly'. Now this, it might be maintained, is too good not to be true: it must, at any rate, be part of a tradition which kept as close as possible to an original report. Otherwise, it is Swift or Defoe; the ordinary yarn-spinner does not think of this close geographical study. It is not much against Mr. Gathorne-Hardy's identifications that his Hóp or Hudson is too far away from the Massachusetts coast in the neighbourhood of Boston. For it is clear that those Greenland navigators expected a large opening westward round their cape, and were from the first inclined to make things fit. It seems clear, too, that they did not think of those mountains as a narrow range. Take an example from Norwegian history: the same Flatey book that preserves the other version of the Greenland voyages also contains the Life of King Hacon. Hacon we are there told went by Ílarsund, the Sound of Islay, round Sátirismúli, the Mull of Kintyre, and so to Bute and the adjacent islands. Now from Islay he ought to have seen the mountains of Herey (=Arran) over Kintyre, and rounding the Mull he comes in sight of Arran again from the inner sea. The view from outside corresponds with the view from inside. But the landscape in Wineland is not an easy thing like this; one makes out from the language that there is a large mass of mountains, and 'mjök'='well enough' shows that after all there might be room for doubt. Storm's theory, and his map of Nova Scotia, show a much closer correspondence and a much shorter distance between the two views: but this possibly is not so much in his favour as might appear; the identification is perhaps too easy.

Mr. Gathorne-Hardy has argued in favour of a narrative which is generally despised; which Professor Finnur Jónsson in a recent paper (1915) rejects: the story of Bjarni Herjulfsson. This captain is said to have been driven south in bad weather sailing from Iceland to Greenland and to have come in sight of various unknown lands before he came at

last to his father's house in Greenland. The story is certainly well told and life-like; while, as Mr. Gathorne-Hardy well argues, there is nothing in it that any one could have a motive for inventing. The details are rather better than here represented: 'whereupon they left the land on the port side *and let the sheet turn towards it*' (p. 26) is unintelligible, though, or because, it is a literal translation. *Skaut* means either 'tack' or 'sheet', as the case may be. The meaning clearly is that they were sailing on the port tack, with a westerly wind. Here it looks, again, as if there were a true tradition. There is no obvious motive for invention, while the particulars are clear in themselves.

There are many other points and matters of interest in the book; the author is to be congratulated on his skill in putting so much into three hundred pages.

W. P. Ker.

Mediæval Archives of the University of Oxford. Edited by the Rev. H. E. Salter. 2 vols. (Oxford Historical Society, vols. lxx and lxxiii, 1920-1.)

These volumes appeal to students of history with a double emphasis; they are published for the Oxford Historical Society, and edited by Mr. Salter. And they are peculiarly important because the documents printed are given in their complete form, and the details of them described in a competent fashion by a master of his subject. As the editor says in an introduction that is all too brief, 'students are always glad to have original documents', and it may be added that no mere study of enrolments, still less of calendars, will ever enable the acutest mind to get to the bottom of the mysteries of the administration of the medieval chancery. But in the first volume of his book Mr. Salter has given us a complete collection of material, and just because it is a complete collection and not a selection of the most striking documents he has thrown new light on one of the obscurest points in medieval chancery practice, the make-up and sealing of the so-called letters close.

If we look at the terminology of the medieval chancery itself apart from the actual documents, we find at first sight an apparently simple classification based either on the diplomatic form of the instruments or on administrative convenience. And it is easy to conclude that this classification into charters, letters patent, letters close, fines, and so forth, represents the whole system used by all departments of the chancery. As a matter of fact it represents only the practice of the enrolling department, and is at its best only a cross-classification. The 'hanaper' department which looked after the sealing and issuing of the instruments used a completely different set of terms, and speaks of writs close, writs or letters patent, charters of the small fee, charters of the great fee; and it must be noted that not one of these terms is used in the sense given to them by the enrolling department. Again, if we look at the work of the engrossing clerks we shall find that the method in which the actual instruments are prepared for sealing is not simple; and the character of the writing and the make-up of the documents are not governed by the rules of the enrolling department. So far, indeed, as charters and letters patent

go, the two departments agree; a charter enrolled on the Charter Roll and letters patent enrolled on the Patent Roll will be made up by the engrossing department and prepared for sealing in a fashion appropriate to their importance. The most elaborate documents will have the honour of a pendent seal with a lace or a double slip of parchment passed through the parchment of the document to receive the seal. The less elaborate ones will have a seal *à simple queue*, fixed on a broad tongue cut along the base of the document with the seal fixed at one end; and below this will be a very narrow slip cut the whole width of the document, and doubtless meant to be wrapped round it, when folded or 'plied' for transmission. In any case the document can be opened and read and refolded without breaking or damaging the seal. In a note on p. 137 of vol. i Mr. Salter seems to consider this method of make-up as characteristic of letters close. It is dangerous to differ with Mr. Salter, but in this case I incline to think that he has come to a wrong conclusion. This method is the normal make-up of letters patent and charters meant to be sealed *à simple queue*.

The story of the engrossing of letters enrolled on the Close Roll is harder to understand. From the reign of Henry III, at any rate, the Close Roll shows two kinds of letters issued under seal, those marked by the note 'et postea ista littera fuit signata patenter' or 'et erat patens', or some such words, and those bearing no note at all. It cannot be assumed that the enrolling clerks inserted this note systematically, but it is clear that they recognized two kinds of letters as enrolled on the Close Roll, those made up 'open' and those made up 'closed'. Any collection of letters close, if examined, will be found to contain both kinds. The letters made up 'open' are made up and sealed in the manner already described as employed in the case of letters patent and charters *à simple queue*, and like these can be opened and reclosed without damaging the seal. The letters made up 'closed', on the other hand, have one narrow tongue cut across the foot of them; the seal is affixed not at the end, but across the middle of the slip; beyond the seal on the slip the address is written; and the letter could not be opened without breaking the seal. In fact, specimens in which any portion of the seal remains are rare, and in the case of returned letters close preserved in the Public Record Office seal and slip have usually both disappeared. In consequence the method in which the letters were sealed and closed is occult to modern observation, although one is in the habit of speaking about it with as much familiarity as one might use with an envelope.

Even the seal used for letters close is not free from peculiarities. Just as there are two species of letters close, so there are two species of seals: letters are sealed *sub pede sigilli* or are left without any note of the seal used. With admirable and scholarly reticence Mr. Salter, in describing the seals affixed to these documents, has refrained from describing them as great seals, and has confined himself to the phrase royal seals. The wisdom of such reticence is profound; for the fact is that we only assume that letters close made up 'closed' were sealed with the Great Seal at all; and the current interpretation of the words *sub pede sigilli* as meaning the half-seal, i.e. the reverse of the Great Seal, is nothing more than an ingenious conjecture, resting partly on the authority of Mr. W. H. Steven-

son in his *Calendar of Close Rolls* and partly on the authority of the *New English Dictionary*. But no one has ever seen a seal made by using the reverse side of the matrix of the Great Seal only, and until such a seal is forthcoming respectful doubt is permissible. Of the existence of a half-seal in the English chancery there is indeed no doubt; it is mentioned in statutes from 1 Henry VIII, c. 16 down to 2 & 3 William IV, c. 92, and it is always spoken of with familiarity and respect; and yet no one has ever seen a specimen of the English half-seal, or handled a matrix adapted to create it. This is not a little odd, but it becomes still odder when the history of the quarter-seal of the Scottish Chancery is considered. This seal, which is used for letters that in England would be letters close, is well known; specimens of the seals exist and can be examined; the matrices are in existence, and the seal is still in use. In view of the general puzzledom of the subject it need not surprise us to learn that it is not a quarter-seal at all, but a seal in the shape of a semicircle, with an obverse and a reverse, modelled on the obverse and reverse of the great seal, and only differing from it in a few minute points.

Now its existence seems to suggest as a possible hypothesis that the half-seal of England may have been a seal of this character, and it is at least possible that the phrase *sub pede sigilli* may mean that in those cases also that seal was employed. Only the production of such a seal or its matrix can prove such an hypothesis; but it is possible to support it on the evidence of fragments, even small fragments, of seals found adhering to the tags of letters close. The Public Record Office is a bad place for the discovery of such evidence. A returned letter close is of little importance, once its duty has been done, and though neglect is often the best preservative of parchment, it is fatal to seals. Still even there two specimens of letters close[1] are known, still bearing small fragments of seals, showing a reverse and obverse, which are assuredly not great seals. The best preserved of these shows a few letters of the legend. These letters are the same size as the letters on the legend of the Great Seal; the curve of the seal and its consequent diameter are those of the Great Seal, so far as the small size of the fragment enables them to be determined. But the tongue to which this seal is attached measures just two inches from the point at which it leaves the body of the writ to the point at which the outer rim of the seal was fixed; and the diameter of the Great Seal of the date, the reign of Edward II, is 3·9 inches. There is room for a half-seal, but not for a whole seal. Two instances are much, but scarcely enough. Had it not been for Mr. Salter's wisdom in printing all the documents in his collection, the most remarkable case might never have been known. It is no. 101 in the first volume of his work. Again we have the same make-up; a single narrow tag, with the seal half-way along it, and the address written at the end of the tag. The seal is of course only a fragment, but so far as its appearance goes it might be a largish fragment of the Great Seal; it is certainly the largest fragment I have ever seen attached to a letter of the kind. Again, its position on the tag makes it clear that there is only room for a half-seal and not for a whole seal. It may be added that no. 103 is another letter of the same

[1] The reference is R. S. 418 and 419.

kind, so that between the Public Record Office and the Archives of the University of Oxford four instances have now been noted. I feel that even in a review I may thank Mr. Poole for allowing me to see what Mr. Salter's careful description had caused me to suspect. Other muniment rooms must contain such seals; one muniment room may contain an unbroken specimen[1]. If Mr. Salter could be put in commission, the mystery of the English half-seal might cease to be a mystery at all.

But it must not be thought that these volumes only contain material of this kind. They are both rich in matter of more general interest. The second contains a roll of proceedings under the Statute of Labourers, a roll of great size and importance for which Miss Putnam has supplied a special introduction. It contains the best account of the Assize of Bread and Ale that I have met with, given by Mr. Salter as an introduction to rolls of the proceedings taken in Oxford against offenders in the fourteenth century. The introduction and the text are both rich in explanations of the technical terms of the baker's trade, and emphasize the point that the baker was only concerned with flour and not with the grain of which it was made. The proctor's accounts are of less general interest, but even among those there are gleanings to be had for the search.

Corrigenda are too few to need mention. Mr. Salter may, however, like to know that the name of the clerk who was killed in 1298 was Fulk Neyrnuit. His family name occurs in the *Testa de Nevill* in a latinized form as Nigra Nox.

C. G. CRUMP.

The Queen's College. By JOHN RICHARD MAGRATH, D.D., Provost of Queen's. (Oxford: Clarendon Press, 1921.)

IT was a fortunate accident which prevented Dr. Magrath from completing the history of the college for the series published many years ago by Mr. F. E. Robinson. If it left that series incomplete, it has procured for us the more elaborate and detailed history which the provost has at last been able to produce of the college of which he has been for so many years the distinguished head. In his preface Dr. Magrath explains that he decided to take his original manuscript as the base of his new text and to supplement it freely by notes and appendixes. He apologizes for the possible inconvenience which this method may have caused. But few are likely to complain of the process which has given them two such richly documented volumes, full of material illustrative not only of the history of the college, with which they are primarily concerned, but of the whole university. The provost justly calls attention to the new material which he has collected on various points that have been before obscure; to the details in the life of the founder and the history of the Eglesfield family; to the true account of the dissension which led in 1379 to the expulsion of Provost Whitfield and three of the fellows, an incident which Antony Wood incorrectly surmised to be due to Wycliffism; to the examination of John Wyclif's own connexion with the college, where he shows that some of the references are to a Poor Boy of the same name; and to the new treatment of various

[1] Two almost complete examples have now been found among the Duchy of Lancaster Royal Charters in the Public Record Office, nos. 248, 271.

other topics. The rebuilding of the college in the eighteenth century has made an account of the older buildings of particular interest and importance. The original buildings are carefully described, and the process by which they were replaced in the course of fifty years from the date of Wren's first design in 1682 is set forth in detail and admirably illustrated. There is indeed no topic bearing on the history of the college, its growth, its social life, the distinction of its members, which does not receive ample treatment; and on all such subjects the notes and appendixes furnish abundant illustration. There is little if anything which can have escaped the author's search. There is a will of Provost Muskham in the London Husting Rolls,[1] but it is only of interest as showing that he was a benefactor of Elsing Spittle. Of Thomas Cartwright there are some interesting notices in Mr. C. T. Gatty's recent history of *Mary Davies and the Manor of Ebury*, to which of course Dr. Magrath could not have had access. One might perhaps wish that the provost's modesty had permitted him to give a fuller narrative of his own long tenure of his office. Special attention must be directed to the appendixes on the materials for the history, and on the site of the college; and also to the text of the earliest 'Long Roll', for the year 1347–8, which, like other documents of its class, contains a mass of details trifling in themselves but collectively invaluable. Queen Anne's letter on behalf of the college, written about 1384, must be one of the most ancient English documents of its kind now extant. To the lavish and beautiful illustrations reference has already been made; one cannot say more than that they and the text which they so well illustrate are worthy of one another.

C. L. KINGSFORD.

Calendar of Inquisitions. Vol. x, Edward III. (London: Stationery Office, 1921.)

THE effects of the war and of the economies enforced among its results have been less than one would expect upon the valuable series of calendars compiled at the Public Record Office. To students, however, at a distance, who are so dependent upon them, it will be unwelcome news that their price, as with other publications, will henceforth have to be raised. The series which deals with the inquisitions held after death is of interest to many more than genealogists and topographers: an index of subjects which extends to thirteen double-column pages illustrates the great variety of subjects on which light is thrown by the patient labours of the Record Office staff. Under the heading of 'services' alone we have more than eight columns; students of names and of English words, of manorial customs, of ecclesiastical practices, and of social life will all find something to their taste. On two subjects we are here given an increasing amount of information; one of these is the practice of recording births (not baptisms) and sometimes deaths in sundry church books; the other is the development of returning heirship to the deceased under fines and settlements as well as heirship in blood. For instance, John de Nevill, the last of the Nevills 'of Essex', died in 1358, and the returns to the inquisitions held thereupon show that, although his kinsman,

[1] Sharpe, *Calendar of Wills in the Court of Husting*, i. 684.

William son of John Semor (the name had formerly been read as 'Senior'), was 'his next heir in blood', his inheritance passed under 'a fine levied in the king's court', after his wife's death, to William de Bohun, earl of Northampton, and his heirs, from whom, in due time, it came into the hands of the Crown as part of the duchy of Lancaster.

The present volume carries on this most valuable calendar from 1352 to 1360, so that at least two volumes more will, apparently, be needed to complete the reign of Edward III. Although, as we learn from the brief preface, the proofs of the elaborate index had to be passed through the press during Mr. O'Reilly's absence on military service, the two hundred and twenty-six pages to which it extends should win the gratitude of those who use it and adds, as usual, enormously to the value of the volume. One notes, on looking through it, a few small points that seem to need correction. The John de Beauchamp (*de Bello Campo*) 'of Warwick' on p. 530 was not, as indexed, 'earl of Warwick', but a brother of Earl Thomas. The *Inq. post mortem* on John (no. 628) proves the two to be identical. His brother Thomas's heir apparent was similarly known as Guy 'de Warwick' (pp. 372, 460). The 'Bourghcher' on p. 588 is 'Burgcher' on p. 597, but there is no cross-reference; consequently Eleanor, daughter of John de Lovayne, a considerable heiress, who married William Bourchier, is found on both of these pages separately. So also Michael de Poynings is found on p. 722, but 'Ponynges', the medieval form, is found on p. 721, with no cross-reference. Oddly enough, 'Lionel de Andwerp' (pp. 261, 567) is not recognized as Lionel, son of Edward III (p. 687).

A tragedy characteristic of the times has its echo in this volume, where we can trace the fate of that unhappy widow, Margery de la Beche, to its close.[1] She is here recorded to have died at Calais 20 March, 23 Edward III (1349)—or, on another page (no. 315), 20 Edward III; but her description as 'late the wife of Nicholas de la Beche, sometime wife of Edmund Bacoun' (no. 26), has not availed to identify her in nos. 315, 316, under Beche, in the index. The previous volume (vol. ix) has a good deal about her, owing to her violent abduction, from her manor-house of Beaumeis, by Sir John Dalton, son of Robert, who subsequently married her without the king's licence, for which her lands were forfeited to the Crown. An inquisition in the present volume records the knight's succession to his father in 1353, and another headed 'Edmund Bacoun' and taken later in the same year records that on 7 April, 20 Edward III (1346), 'John de Dalton, knight, who raped the said Margery, also married her, whereby the said manor was taken into the king's hand by reason of the forfeiture of the said John' (p. 77). Yet another of these inquisitions (no. 314), relating to 'Edmund Bacoun and Margery his wife', extends over four and a half pages (pp. 262–6). It proves that Edmund had died twenty years before (3 April 1336) and deals with his heirs by his two wives. Its interest consists chiefly in its references to public records: the Crown called for transcripts of fines and ordered 'the Red Book in the Exchequer' and other records there to be examined, and received extracts from 'the book of fees at the Exchequer', the Red Book, and

[1] I have recently dealt with this outrage, which involved murder and plunder, in *Sussex Arch. Coll.* lxii (1921), pp. 12–18.

Domesday Book, with the well-known passage in the *Dialogus* referring to the great survey. In another inquisition (no. 446), taken in 1358, the treasurer and barons of the exchequer make a return from 'the book of fees kept at the Exchequer for evidence and not for record in the counties of Cambridge and Huntingdon', and from 'the Red Book remaining in the Exchequer, which is of record in the counties of Cambridge and Huntingdon'.[1]

A very important point is here established concerning the tenure by serjeanty of Woolbeding in Sussex. Nearly two pages of the preface to the *Red Book of the Exchequer* (pp. cccIxxxv–vii, 556) are devoted to vague speculations as to 'the serjeantry [*sic*] of Roger de Wolbedinge "by the service of being the *Gunfenarius* of Spicheforde"'. Of this service we there read:

> This entry occurs in a list of Sussex serjeanties, and we find among the Sussex tenants contributing to the Welsh war of 1165 the name of Walter de Sparkeforde.

As no reference is given for this statement, I have spent much time and trouble in hunting for the said Walter, but neither in the index nor the text can I find him. Can he be among the offspring of the editor's fertile brain? I am no less puzzled by the alleged 'Welsh war of 1165'. It seems, however, to be a deduction from the words 'de exercitu quodam de Walliis' in the earl of Arundel's *carta* of 1166. These are definitely rendered by the editor: 'concerning a certain scutage [*sic*] of Wales' (p. ccv), and we read of 'the "Scutage of Wales" referred to in the Sussex charter' on p. ccvi, and of 'the Scutage [*sic*] in 1165' on p. ccviii. No such 'scutage' is mentioned even by Swereford himself.[2] However, in an inquisition of 1354 (no. 189) we here discover that the manor in question was held

> by service of coming on foot to meet (*contra*) the king in time of war at the bridge called Schetebrigg in co. Southampton and carrying from the said bridge, with the king, a standard as far as the bridge called Wolvardesbrigg in Sussex.[3]

The index identifies these bridges as Sheet bridge in Petersfield and Woolmers bridge near Midhurst. A road, one may add, still follows the valley of the Rother from Sheet to Midhurst, to which Woolbeding is adjacent.

Before taking leave of this scholarly volume one may draw attention to the inquisition on William de Roos, whose great estates require for their description more than eight pages. For, in addition to Hemsley, his ancestral castle, he held that of Belvoir. Light is thrown by the jurors' returns on the cost of upkeep for such castles and, in Lincolnshire, of sea defences, while the revenue of their lords was still affected, in 1352–3, by the ravages of the Black Death, which deprived them not only of rents but of the issues of 'common ovens'. In the index 'Gymyles' should be combined with 'Gimeges', for the two names are the same.

J. H. ROUND.

[1] See p. 75 of the *Red Book* for the entry cited.

[2] The reader is invited to test my statements in the *Red Book's* text.

[3] The service will also be found described in *Book of Fees*, i 71, and the *Testa* p. 226 b, *bis*.

The Witch-Cult in Western Europe. A Study in Anthropology. By Margaret Alice Murray. (Oxford: Clarendon Press, 1921.)

There is no task for the historian so difficult as really to re-think the thoughts of the past, especially when these thoughts assume a form which modern knowledge discredits. Few, indeed, are the historians capable of such a task, and among these few we certainly place Miss Murray. It is true that her book is a monument of compressed information, sound scholarship, and solid learning. It is more than this. She never loses herself in details, nor forgets in following out its ramifications the main object of her work. There is nothing of the kind, so far as we know, in English on the study of the ideas of the distant past; and the work has been so thoroughly carried out that it is not likely to be superseded. It is, indeed, pleasant to meet with a piece of work so comprehensive in scope, and so rich and varied in its treatment of the subject of witch-cult in western Europe and notably in England.

As Mr. Lea in his account of the persecution of the Albigenses was able to show that the anti-social views of this sect warranted the authorities in putting it down, so Miss Murray demonstrates that the dangers arising from the witch-cult constituted just as grave a menace to the framework of society. This is, indeed, the most novel feature in her deeply illuminating book. Under 'operative witchcraft' she classes charms and spells, and rightly has little to say about it. She concentrates all her attention on ritual witchcraft, which she calls the Dianic cult. We all know that Mithraism constituted a serious rival to Christianity, and we all are aware that the church took over the birthday of Mithra as the birthday of Jesus Christ. The old persisted in the new, and this lesson Miss Murray enforces in unexpected ways. Mingled with the Christianity of the middle ages much of the old paganism remained. The witch-cult persisted, and with its persistence rites for rain-making and for causing or blasting fertility survived. Inevitably Dianists sought to encourage fertility among themselves, and to restrain it among their enemies. The church denounced the witches for their share in the destruction of fertility. In 1488 Innocent VIII held that witches 'blight the marriage bed, destroy the births of women and the increase of cattle; they blast the corn on the ground, the grapes of the vineyard, the fruits of the trees, the grass and herbs of the field'. To a Dutchman like Adrian VI it was inevitable that he should denounce witches 'as a Sect deviating from the Catholic Faith, denying their Baptism, and showing Contempt of the Ecclesiastical Sacraments, treading Crosses under their Feet, and, taking the Devil for their Lord, destroyed the Fruits of the Earth by their Enchantments, Sorceries, and Superstitions'. The evidence the author produces, and above all her masterly interpretation of it, go far to justify the decrees of both popes.

Miss Murray is successful in showing that the Dianist cult owned adherents from Italy to New England during the fifteenth, sixteenth, and seventeenth centuries. She laments that the cases in the New World have not been published in full, but the material for the Salem Witches case has been carefully collected by Mr. G. L. Burr in 1914, and, indeed, this

author is referred to in her fine bibliography. Some of the instances brought forward by Miss Murray are extraordinarily interesting. The fifth earl of Bothwell attempted to murder the king in 1591. It is plain that men feared Bothwell because he was the chief of the witches, and therefore was in possession of magical powers. Indeed, some regarded this arch-Dianist as divine. Miss Murray traces Dianist influence at the court of Charles VII of France. During his reign the Marshal de Retz suffered death as a wizard.

Miss Murray boldly applies her theory to the case of Joan of Arc. She believes—and adduces evidence for her belief—that Joan was put to death as a witch, and that the conduct of her associates during her military career sustains the fact that she belonged to the Dianic cult, not to the Christian. It is not without significance that nine years after her death her commander, Gilles de Rais, was tried on the same charge and condemned to the same fate. Anatole France grasps the fact that behind Joan of Arc lay some hidden force, and this force the author identifies with Dianism.

> The questions asked [Miss Murray concludes] by the judges at Joan's trial show that they were well aware of an underlying organization of which they stood in some dread. The judges were ecclesiastics, and the accusation against the prisoner was on points of Christian faith and doctrine and ecclesiastical observance. It was the first great trial of strength between the old and the new religions, and the political conditions gave the victory to the new, which was triumphant accordingly. 'We have caught her now', said the Bishop of Beauvais, and she was burned without even the formality of handing her over to the secular authorities. After the execution, the judges and counsellors who had sat in judgement on Joan received letters of indemnity from the Great Council; the Chancellor of England sent letters to the Emperor, to the kings and princes of Christendom, to all the nobles and towns of France, explaining that King Henry and his Counsellors had put Joan to death through zeal for the Christian Faith; and the University of Paris sent similar letters to the Pope, the Emperor, and the College of Cardinals. Such action can hardly be explained had Joan been an ordinary heretic or an ordinary political prisoner. But if she were in the eyes of the great mass of the population not merely a religious leader but actually the incarnate God, then it was only natural for the authorities, who had compassed her death, to shelter themselves behind the bulwark of their zeal for the Christian religion, and to explain to the heads of that religion their reasons for the execution. On the other hand, the belief that Joan was God Incarnate will account, as nothing else can, for the extraordinary supineness of the French, who never lifted a finger to ransom or rescue Joan from the hands of either the Burgundians or the English. As God himself or his voluntary substitute she was doomed to suffer as the sacrifice for the people, and no one of those people could attempt to save her.

On the whole, we are in agreement with the views Miss Murray expresses. She uses, we think, needlessly offensive expressions about the Christian religion. As we ponder her evidence a doubt suggests itself. Is she not unduly anxious to interpret late medieval evidence as implying more continuity with a remote past than there really is? ROBERT H. MURRAY.

The History of English Parliamentary Privilege. By CARL WITTKE. Ohio State University Studies: Contributions in History and Political Science, no. 6. (Columbus: Ohio State University, 1921.)

PROFESSOR WITTKE has undertaken an ambitious task in attempting a survey of the whole history of parliamentary privilege from its origins to the present day. Writers have long been misinterpreting the history

of parliament and therefore of parliamentary privilege, and although Dr. Wittke states that his book is intended to be 'not so much a history of privilege as an essay in the interpretation of the great principles underlying parliamentary privilege', yet great principles must be deduced from sound history, and an independent study of his subject, at least until the close of the sixteenth century, was needed. He has, however, been content in his earlier pages to accept without criticism the discredited interpretations of such predecessors as May.

Thus Dr. Wittke misconceives the constitutional rôle of the commons in medieval times and evidently thinks of parliament as composed of two more or less co-ordinate houses. As a result his view of the early history of freedom of speech is unhistorical. 'As early as the reign of Edward III,' he writes, 'it is reported, the House of Commons often discussed and agreed upon laws exactly contrary to the king's prerogative, "yet they were never interrupted in their consultations, nor received check for the same".' In reality this report is simply the personal opinion of Henry Elsyng, who lived in what Maitland called the prehistoric age. The commons, it is essential to grasp, were not a 'house' in the middle ages, their proceedings were not in parliament, and only their Speaker enjoyed the right to speak in the parliament chamber, a right which is reflected in his petition for the privilege of amending his speeches should the need arise. Freedom of speech in the assembly of the commons is, therefore, a distinct problem from freedom of speech in parliament, and the question of the privilege enjoyed by the lords in parliament during the middle ages should at least be raised, although perhaps it cannot be satisfactorily answered. So far as the commons are concerned the first entry in an official record of the inclusion of this privilege in the Speaker's petition at the opening of parliament occurs in 1542, although Dr. Wittke should have referred also to Roper's account of More's speech in 1523. But the difficulty is to elucidate the development of the privilege before the formal claim was made; and lacking any commons' journal we are dependent upon a few celebrated cases that have been recorded in the Rolls of Parliament.

Haxey's case is usually cited as involving first a breach of this privilege, and eventually confirmation of it; and Dr. Wittke so cites it. But it may be questioned whether the conventional construction of the case is really sound. In the first place it should be clearly recognized that there is not a word in the Rolls of Parliament to suggest that Haxey was a member of parliament or a clerical proctor, and the latter suggestion has apparently no other basis than an unnecessary assumption by Stubbs and others that he must have been in parliament. There were two stages in the case; the proceedings under Richard II, and the reversal of the judgement by Henry IV. In the first there is nothing to indicate that the commons considered any privilege of free speech to be involved: and indeed it would be amazing had they asserted a privilege to discuss the affairs of the king's household. Their submission to the king repudiates any such claim.[1]

For the reversal of the judgement against Haxey there were two peti-

[1] *Rot. Parl.* iii. 239 *b*.

tions in the parliament of 1399, one to the king from Haxey himself, the other a commons' petition. On the latter great stress has been laid, and Dr. Wittke assumes, as other writers have done, that the commons were alone responsible for it: they knew of the king's favourable answer to Haxey's petition, but were not content to let the matter rest there and wished to vindicate their own liberties. Comparison of the two petitions, however, will reveal that they are almost *verbatim* the same, which leads one to suggest that, like a wise suitor, Haxey made doubly sure of success by sending a second petition to the commons, who thereupon presented it to the king. In any event the petition is for the reversal of a specific judgement as contrary to law and procedure, and no privilege of free speech could have covered Haxey, who was not a member of parliament, nor indeed could it have prevailed in any case against a charge of treason. Haxey, and the commons as sponsors of the petition, were probably either claiming that the offence was not treason or that the trial was irregular.[1] This reading of the case serves to interpret the oft-quoted phrase 'Libertees de ditz Communes', in which 'Libertees' does not include freedom of speech and 'Communes' does not refer to the representatives in parliament.

In 1455 we have the case of Thomas Yonge, who was a member of parliament. His assertion of freedom of speech, upon which he based his claim for redress of his grievance, is important; but we should beware of over-emphasizing it, and we should not forget that his petition was a personal suit. His words no more prove the existence under Henry VI of such a liberty as he describes than the very similar words of Peter Wentworth prove its existence under Elizabeth; and the political circumstances of the case warn us against accepting the favourable answer to the petition as implicit confirmation of the privilege asserted. Even under Elizabeth, Yonge's statement would need judicious interpretation to represent historical fact, and a century's development for the commons lay between the two eras. Free speech, it seems more correct to assume, was a slow growth, the stages in which are unchronicled; but it was a noteworthy advance when a prescriptive and possibly vague right was at length given expression in the Speaker's petition: and the history of the privilege during the second half of the sixteenth and the early part of the seventeenth century is that of a contention between a royal and conservative interpretation of the term 'freedom' and a parliamentary and progressive interpretation of it. When Dr. Wittke describes Elizabeth's veto upon the introduction of bills affecting the royal estate as 'quibbling' he simply falls into an anachronism.

On pp. 21 and 22 Dr. Wittke falls into two errors which the verification of his references might have prevented. In the first the original culprit was May, who quoted the Speaker's petition of 1841, and then asserted that the terms of the petition had been the same since 1515. Dr. Wittke follows May, only to contradict himself in subsequent pages. In the second instance he is following Hatsell's precedents upon the question whether a new Speaker coming to office in the middle of a parliament's life

[1] Miss I. D. Thornley informs me that in her opinion the procedure was in fact unprecedented in the trial of one who was not a peer.

must repeat those privilege claims, already made by his predecessor, which refer to the commons, or must confine himself to purely personal claims. Hatsell quotes the precedents of Onslow in 1566, Charlton in 1672, and Foley in 1694. In Foley's case the commons ordered the omission of the claims. Not only does Dr. Wittke misdate Charlton and Foley as 1572 and 1594—a printer's error gives this as 1549—but he evidently mistakes the point at issue, and takes the question to be whether privileges ought ever to be petitioned for or be merely assumed as 'undoubted rights'. He seems to make the house of commons take the latter view in 1594.

Reference must be made to an aspect of the earlier history of privilege which throws invaluable light upon the obscure problem of the evolution of the house of commons, but of which Dr. Wittke does not realize the importance. This is the transference of jurisdiction over privilege cases affecting the commons, from the king in parliament or, as Dr. Wittke would write, the house of lords, to the commons themselves. It was inevitable that whilst the medieval and unitary conception of parliament persisted, jurisdiction should have been exercised in the parliament chamber; and consequently the privilege cases of the middle ages are recorded in petitions for remedy addressed to the king or to the king and lords in parliament. This practice and the theory behind it are in striking contrast with the modern doctrine and practice which were being evolved during the sixteenth century and received classical expression in the writings of Coke: the high court of parliament, Coke maintained, consisted of two houses, each of which was itself a court. It was in the reign of Henry VIII, so far as we know, that the commons began to assert jurisdiction over their own privileges; and Ferrer's case in 1543, when they sent their serjeant to release an imprisoned member, marks a new epoch. Then it should be noticed that in 1515 an act had authorized the Speaker and commons to license the departure of members before the close of parliament, so giving them a control over their own members which was to develop and ultimately to lead to the assertion of control over disputed elections in 1586. And it is in the same reign that freedom of speech first appears in the Speaker's repertory of petitions. Traces of the old subservience of the commons to the lords can be found under Elizabeth, and it required more than half a century's development after the death of Henry VIII to express the new constitutional position in so definite a theory as Coke's.

Dr. Wittke's survey of the earlier history of parliamentary privilege is, however, brief. His main object is to develop ideas thrown out in a chapter of Professor McIlwain's *High Court of Parliament*, and to show the relation of privilege to parliament's character as a court. Before the seventeenth century the history of privilege contributes comparatively little to this main study; but a famous passage in Coke's *Institutes* became the creed of parliamentarians, and with the expansion of their claims and the increasing fullness of reports Dr. Wittke has a subject which he handles on the whole satisfactorily. He devotes chapters to the conflicts between lords and commons over privilege, to the conflict between *Lex parliamenti* and *Lex terrae*, and to privilege cases in the dependencies; and he brings out the judicial basis of these later privilege claims with convincing fullness.

He reveals, however, an extraordinary conception of historical proof when he cites some cases in the dependencies in the nineteenth century and urges that they throw valuable light upon the origin of parliamentary privilege in England. Finally it must be added that Dr. Wittke's book shows many signs of haste. It has been inadequately revised, and the index is too meagre to be of much use. J. E. NEALE.

Tudor Ideals. By LEWIS EINSTEIN. (London: Bell, 1921.)

NINETEEN years ago Mr. Einstein published his illuminating book, *The Italian Renaissance in England*, and this book he meant to serve as an introduction to a future history of English sixteenth-century ideals. This *magnum opus*, we regretfully observe, is not to be, for a diplomatic career spent mainly in distant parts has interfered with its pursuit. Instead of writing history, the author has been engaged in making history. His book, he confesses, has another aim

> to justify the apology for its appearance. Dimly conscious as we are of the significance of the currents which are now carrying us forward, it is impossible not to realise that the great war has marked the end of an epoch, and that we stand to-day at the threshold of a new era toward which we are both groping and drifting. . . . Our era presents a curious resemblance to the age which forms the subject of this study. Its setting is different, its direction is opposite, but in many respects it is not unlike.

Approaching the history of Tudor ideals in true historical spirit, the author sets himself to teach what forms these ideals assumed, whence they were derived, and how they came to be what they were. True, there is some overlapping in the different chapters, and here and there the chapters incline to be sketchy. At the same time Mr. Einstein has studied his fascinating subject so thoroughly that he almost makes us believe that it is easy. He sets forth the attitude of the people to the Crown, to the individual, to conceptions of life and thought, and to all that tended to the enrichment of life in luminous fashion, and his setting forth furnishes many a clue to the interpretation of the past, and to the tendencies of political thought in the present. The book, too, is carefully founded upon documents. Seldom, indeed, can we find fault with it, though we are surprised to find quoted the letter supposed to have been written by Elizabeth to the bishop of Ely:

> Proud Prelate.
>
> You know what you were before I made you what you are. Obey me instantly, or I will unfrock you, by God.

It is, of course, an eighteenth-century forgery.

In his able analysis of the theory of majesty Mr. Einstein points out that in spite of the boast that Englishmen, unlike men of Europe, were not slaves, there was a new spirit of servility hitherto unknown in royal annals. Marillac, the French ambassador, remarked that Henry VIII had become a 'statue for idolatry'. Nor was this servility confined to dignitaries of the church. Members of the family of Henry VIII knelt before him in accordance with an etiquette which decreed that no one must speak to him 'but in adoration and kneeling'. Naturally Elizabeth expected all at court to fall on their knees before her. Details like these

enforce the lesson that the authority of the Crown must be paramount, that all must obey this authority, and that all must render all possible respect to the wearer of it. There is nothing novel in this idea: it has long been the property of scholars, yet by his skilful marshalling of his material the author presses home his point with ability.

In a dozen chapters Mr. Einstein analyses the individualism of the sixteenth century, and in this connexion he has much to say which deserves to be pondered. The old order had been the empire or the church, the commune, the gild, the scholastic system: the individual is always part of some group, and has no existence apart from it. The new order was the state, the national church, the merchant, the individual. The old order had been authority and asceticism: the new was authority, but mingled with it there were reason and joy in the whole of life. For a thousand years there had been as much authority in social life as in intellectual. Unknown men had been content to build the cathedrals of the middle ages, whereas the men of the new age asserted themselves to the utmost. The thirst for glory became unquenchable. The statues used to be within the cathedral, for they were erected to the glory of God. Now they stood in the market-place to be seen of men. Man used to be bound to a bishop, a lord, a municipality, a school, or a body. Now he proudly steps on the stage as himself, eager to develop his capacities for his own benefit, with boundless confidence in his will, his superiority, and his infinite variety. The body, as the author clearly perceives, dissolves into the units which compose it. There is no longer the papacy; there is the pope, who is a lord like other lords. There is no longer the city; there is the prince. There is no longer the university; there is the spirit of humanism. The painter ceases to depict the group; the portrait is his masterpiece. He used to describe on the walls of cemeteries the triumph of death; now he describes on the walls of houses the triumph of life. All this and much else is set down in the striking piece of work which Mr. Einstein has given us.

ROBERT H. MURRAY.

Minutes and Accounts of the Corporation of Stratford-upon-Avon and other Records (1553–1620). Vol. i (1553–66). Transcribed by RICHARD SAVAGE with introduction and notes by EDGAR I. FRIPP. (Publications of the Dugdale Society. Vol. i. Oxford, 1921.)

THIS well-planned and well-edited volume has a twofold interest, literary and historical. It provides material for portraying the life of Stratford-on-Avon at the time of Shakespeare's birth; it includes a number of references to the poet's father, who was for many years prominent in the life of the borough; further, the excellent introduction and notes point out several passages in Shakespeare's plays which are illustrated by Stratford documents and Stratford doings. The historical interest of the records lies in the transition from the 'ancient borough' with its Gild of the Holy Cross maintaining school, almshouse, and bridge, to the 'body Corporate and Politic' of 1553 with its common council, bailiff, and head alderman. Mr. Fripp traces the history of the Gild of the Holy Cross, whose chapel was built in or soon after 1269 and whose schoolhouse dated from 1427–8.

At the dissolution of the gild in 1548 the annual value of its lands and possessions was £43. The charter of incorporation was granted (1553) in response to the petition of the townsfolk, backed up probably by the lord of the manor, the earl of Warwick. Henceforth there was to be a common council composed of fourteen aldermen and fourteen capital burgesses; these jointly were to elect year by year a bailiff and head alderman, who were to be justices of the peace within the borough. The chamberlains were to see to the maintenance of the almshouse and of the grammar-school, which was renamed, not very truthfully, the king's new school of Stratford-on-Avon. The lord of the manor was to nominate the vicar and schoolmaster and to approve the bailiff. Eight days after the signing of the charter King Edward died, and within two months by the execution of the duke of Northumberland the manor of Stratford passed to Queen Mary. Ample illustration of the unquietness of the succeeding years is furnished by the borough documents. Stratford was strongly Protestant, and 'frays' between men of opposite views as to religion seem to have been frequent. The queen's appointment of Roger Dyos as vicar was evidently unpopular. For sixteen months his stipend was withheld altogether, though at last a portion was paid. Afterwards, on the news of his contemplated departure, he received a further sum, but the balance was not paid till he sued the corporation seventeen years later. Mary's reign was evidently regarded as a disagreeable interval not likely to last long. When the old schoolmaster William Dalan was granted a pension of £8 and a chamber next the Gildhall, he was directed to continue the celebration of mass in the chapel and on feast-days in the parish church; but the significant words are added, 'as long as he shall live and be lawfully disposed to the same'.

The documents transcribed by Mr. Savage are varied in character, beginning with the charter of incorporation (twenty-two pages in length). Then follow the proceedings of the court leet and view of frankpledge for the years 1554 to 1560, interspersed with sundry agreements and the book of orders for 1557. Then comes the rent-roll for 1560–1 and the court-roll for 4 May 1561, with various accounts, and minutes of corporation meetings. After 1561 there is no entry headed 'View of Frankpledge'. The new corporation, like the old court leet, found it a hard matter to restrain the wanderings of pigs and ducks, or the propensities of lazy householders to make rubbish-heaps where they would. Many fines were inflicted for breaking the assize of bread and ale, and for affrays, particularly at fair-time. In 1556 an official was appointed, with a distinctive coat, to oversee 'all sturdy and strange beggars'. Interesting details are furnished as to the fairs (held twice a year), the practice of archery, and the frequent, though forbidden, games of bowls. There are many references also to the 'inmakes' or inmates, which may be compared with the similar complaints in the Southampton Assembly Books half a century later. The objection to inmates, as Dr. Horrocks has pointed out, was that they increased the risk of infection and fire, and that they might very likely come upon the town for relief.

The Dugdale Society is to be congratulated on the quality and the usefulness of its first publication. CAROLINE A. J. SKEEL.

The English Catholics in the Reign of Queen Elizabeth. A study of their politics, civil life, and government: 1558–80. By JOHN HUNGERFORD POLLEN, S.J. (London: Longmans, 1920.)

IN recent years much welcome light has been thrown on the interesting section of English life which found itself unable to accept what has been called 'the Elizabethan settlement'. From 1905 onward the lengthening row of volumes issued by the Catholic Record Society has contributed many valuable materials. The two beatifications of English martyrs in 1886 and 1895 have led to the publication of several volumes containing their lives, and some general discussions as to the incidence and character of the various stages of persecution to which the martyrs fell victims. The progressive opening and calendaring of archives at home and abroad has continued to furnish fresh information of a specially valuable kind. Thus, bit by bit, the full materials for the story are becoming available. An interesting story it is, though it concerns a by-way of history whether regarded as rational or ecclesiastical; it is full of a drama of hopes and fears, lit up by much heroism, as well as spiced by a considerable element of rascality.

It is natural that, so far, biography rather than history has taken advantage of the situation. The beatifications have focused attention on certain groups of actors, with the result that Bishop Challoner's biographical work has been done over again, on a larger scale, and with fresh wealth of illustration and detail. The public, too, which is interested in the subject most readily welcomes biography: it is a small and compact company of people interested in its own heroes. So Gillow's *Biographical Dictionary* has found its supplement, just as Challoner's *Memorials* have done; but what is lacking is a survey on broad historical lines of the position of the recusants in England and the exiles abroad.

Father Pollen is aware of this, and his book is an interesting attempt to meet the need. 'I am here endeavouring', he says in his introduction, 'to supply an historical background, against which the work of others will be seen in due proportion.' At the same time it is doubtful how far he has succeeded in his laudable, but difficult, aim. The title which he has chosen raises larger hopes than the book satisfies. This volume deals only with the first twenty-two years of Queen Elizabeth, and the scene is laid for the most part not in England but abroad. It is the diplomatic archives which are most successfully employed; with the result that, while much is shown of the political side of the matter, the inner life and the religious and social position of the party are very little handled or exemplified. We are made to see the situation mainly through the eyes of the exiles. This is unsatisfactory unless at the same time something better authenticated is also produced. For the exiles suffered from the usual disadvantages of the *émigré*, fed upon extravagant rumours and false hopes, and misled into fantastical ideas and projects.

What in reality was the extent of recusancy, or of disaffection towards the Elizabethan view of religion? This is a question of primary importance; but the book gives very little help towards arriving at any fair conclusion. The fancies of the *émigré* are very little confronted with the

sober evidence of English returns, lists, and estimates: nor even with general impressions formed on the spot.

What in reality was the extent of actual prosecution? How far were fines exacted, oaths actually tendered, or prisons filled? How far were the persecuting laws enforced? Or, in whatever degree they were not, to what causes and to whose influence is the mitigation to be traced? Again we ask the questions in vain.

Questions of this nature are of much greater importance than many of the rival attractions which usurp the student's attention, such as the inventing, or the pooh-poohing, of plots. They may be of secondary interest to the apologist; but they are of prime interest to the historian. Until they are solved we are at the mercy of the controversialists, the politicians, the diplomatists both amateur and professional, the underworld of informers and spies: an uncomfortable position, which still prevails.

Underneath all this phantasmagoria there is a real world, in which people live and act and think; in which they go to church with some sort of conscience, or they do not; in which perhaps they combine some church-going with some venturesome hearing of mass in secret or some harbouring of a recusant priest. There are parishes which are content or not content with the new ways, and with the new parson, or more often with the old one who with more or less of conviction has conformed. There are districts which are conservative and districts which are innovating. There are views which are protestant and anti-catholic, there are views which are catholic and anti-Roman. Where in the midst of all this real life is the recusant or the conservative? If we can get nearer to such realities as these, we can afford to care less for Elizabeth and her whims or policies, for popes and emperors, for the rivalries of France and Spain.

The subject of 'The English Catholics in the Reign of Queen Elizabeth' seems to demand something more of this sort than the book provides. Perhaps the time for accomplishing so difficult a task has hardly come. The history of the exiles abroad is another and an easier matter; and writers like Lechat who have recently taken up that theme have chosen the simpler part. But the situation in England deserves more elucidation than it has received as yet: and many judgements must meanwhile be held in suspense.

W. H. FREER.

Matthew Prior. A Study of his Public Career and Correspondence. By L. G. WICKHAM LEGG. (Cambridge: University Press, 1921.)

THIS life of Matthew Prior suffers from the disadvantage of having been compiled before, but published after, Mr. Bickley's book on the same subject which appeared in 1914. As far as the principal and printed sources of information on Prior are concerned, little could be usefully added to Mr. Bickley's work. On the other hand, apart from those sources, little would have been left of Mr. Legg's. In the circumstances Mr. Legg has decided to publish his book as it stood, although chapters i to vii, up to the secret mission of 1711, and chapter xii, after the secret committee of 1715, consist chiefly of matter already to be found in the corresponding chapters of the earlier biography.

The remainder of the book throws some light, largely derived

from unpublished material in the Record Office and the archives of the French Foreign Office, on the four eventful years during which Prior attained a transient and, as it proved, a not wholly enviable eminence. A memorandum from Torcy supplements Prior's account of his secret mission to Paris in 1711;[1] his share in the protracted and complicated negotiations which followed is fully described; and his innocence or rather ignorance of the overtures made to the Pretender is demonstrated from correspondence preserved in the French archives, part of which was for the first time published by Mr. Legg in a previous volume of this Review.[2] The last fact places Prior's subsequent misfortunes in a rather entertaining perspective. The succeeding whig ministers, confidently reckoning to find in him a valuable and a yielding repository of incriminating state secrets, haled him before their secret committee, where he was subjected to that ten hours' examination which he himself has so feelingly described. They bullied him, they imprisoned him, they even excepted him from the general amnesty of 1717. All was in vain. Prior divulged nothing whatever for the excellent reason that his former masters and friends had prudently taken the precaution of leaving him nothing whatever to divulge.

R. R. Sedgwick.

Letters of Members of the Continental Congress. Edited by E. C. Burnett. Vol. i, 29 August 1774—4 July 1776. (Washington, D.C.: Carnegie Institution, 1921.)

The historical department of the Carnegie Institution of Washington has done a very useful work in entrusting to the very competent hands of Dr. Burnett the task of collecting and editing the material that has survived relating to the American Continental Congress of 1774–83. The published *Journals* cannot but be in the nature of dry bones which need the covering of contemporary letters and diaries to become imbued with life and meaning.

It may seem, at first sight, that the present collection is, in one way, a little disappointing, though we are indeed promised better results in future volumes. What with the published writings of John Samuel Adams, the numerous biographies of those connected with the congress, and the documents published in Force's *American Archives*, the amount of manuscript material remaining to be unearthed, at least so far as these two first years are concerned, seems to have been of no very great importance. At the same time there is great practical convenience in having such material under a single cover, instead of its being scattered in scores of volumes.

It is accordingly inevitable that the publication of this volume should throw no startlingly new light on the character of the congress. The personality of John Adams, as revealed by quotations from his *Diary* and from his letters, still holds the foremost place on the stage of the history; though we can gather from the material here presented a clearer picture of the separate views of the more extreme and the more moderate parties at the congress. A letter, from the *Lee Transcripts* of the Virginia Historical Society, written by Carter Braxton, a New Hampshire delegate,

[1] See *ante*, xxix. 525 ff. [2] *Ante* xxx. 501 ff.

to his uncle, shows very clearly the temper that still prevailed among some members of the congress, as late as April 1776.

> However strange it may appear, I am satisfied that the Eastern Colonies do not mean to have a reconciliation, and in this I am justified by public and private reasons. . . . Two of the New England colonies enjoy a government purely democratical, the nature and principle of which, both civil and religious, are so totally incompatible with Monarchy, that they have ever lived in a restless state under it. The other two, though not so popular in their frame, bordered so near upon it that monarchical influence hung very heavy on them. The best opportunity in the world being now offered them to throw off all subjection and embrace their darling democracy, they are determined to accept it. These are aided by those of a private nature, but not less cogent. The colonies of Massachusetts and Connecticut, who rule the other two, have claims on the province of Pennsylvania in the whole for near one-third of the land within their provincial bounds and indeed the claim, extended to its full extent, comes within four miles of this city (Philadelphia). This dispute was carried to the King and Council, and with them it now lies. . . . And yet without any adjustment of those disputes, and a variety of other matters, some are for lugging us into independence. But so long as these remain unsettled and men act upon the principles they ever have done, you may rely no such thing will be generally agreed on. Upon reviewing the secret movements of men and things I am convinced that the assertion of independence is far off. If it was now to be asserted, the Continent will be torn in pieces by intestine wars and convulsions. Previous to independence all disputes must be healed and harmony prevail. A grand Continental league must be formed and a superintending power also. . . . It is a true saying of a wit—We must hang together or separately!'

Very suggestive also is the disagreement between the northern and the southern delegates over the question of military pay. The latter thought that the common soldiers received too much and the officers too little; the former that the exactly opposite state of things prevailed.

There is a further reason why the contents of the present volume reveal less than might have been expected. The delegates were sworn to secrecy, and letter after letter emphasizes this fact in tiresome apologies for saying so little. Again one becomes rather weary of the constant complaints of the delegates at the length of the hours during which they have to work.

Still, with all its limitations, the volume is a storehouse of most valuable knowledge and is well worthy of the time and labour that have been expended on it. A subsidiary truth which it enforces is the fallibility of men's memories. Jefferson honestly believed that the Declaration of Independence had been signed on 4 July by every member of the congress, except Dickinson; it now seems almost proved that the document was not, in fact, so signed till a later date, after it had been engrossed on parchment.

H. E. EGERTON.

Γεωργίου Ἰ. Ζολώτα Ἱστορία τῆς Χίου. Τόμος Α'. Ι. Ἱστορικὴ Τοπογραφία. (Ἐν Ἀθήναις. Τύποις Π. Δ. Σακελλαρίου, 1921.)

THIS first instalment of the late George Zolótas's posthumous historical, genealogical, and topographical account of his native island is appropriately published in time for the centenary of the Massacre of Chios, which so deeply stirred Europe in 1822. Its publication is due to the patriotism and generosity of a number of his fellow-islanders resident in England, France, Greece, Egypt, and India, three of whom, K. Argéntes, K. Kalvokorésses, and K. Petrokókkinos, formed an editorial committee, and entrusted the task of putting together the late scholar's rich materials to his daughter,

Kª Sárou. If we may judge from the contents of the present volume, the complete work will form the most comprehensive history of Chios that has yet been published. For since Vlastós issued his Χιακά in 1840 (the second part of which was translated into English by Mr. A. P. Ralli in 1913, the year after the Greek annexation of the island) much has been written about its interesting history. Besides Rodokanákes' gigantic, but discursive, biographical treatise on the Giustiniani, and Hopf's scholarly disquisition upon them (exhumed and presented in a portable French translation by another Vlastós), two numbers of a valuable periodical, Χιακὰ Χρονικά, have seen the light, and the late F. W. Hasluck studied the Latin monuments of Chios.

The present volume is topographical, dealing with the geology and climate, the trade and products—very important subjects in so mercantile a community as Chios—and the geographical names of places in ancient, medieval, and modern times. There is a full account of the mastic and the wine, and it is interesting to learn that 'some English merchants were settled at Scio soon after the establishment of our commerce in the Levant in consequence of its connexion with the port of Smyrna', as Dallaway says, just as a considerable number of the Greeks in England are, like the famous house of Ralli, of Chian origin. There is an analysis of the names mentioned in the golden bull of 1259, which is a valuable source for the medieval topography of Chios. Specially interesting are the derivations of some place-names from foreign races connected with the island in the middle ages, Catalans, Armenians, Cumans, and Slavs. Like the Morea, Chios had a 'Castle of the Fair Woman' with a picturesque ballad about it, and a legendary foundation of Belisarius, the castle of Volissós. Of the churches the most famous is that of Néa Moné, founded by Constantine IX Monomáchos and stormed by the Turks during the massacre. A large map accompanies the volume, which also contains a copious, but (for the foreign names in Latin type) not always accurate, bibliography. We shall await with interest the volume on the *Maona*. W. MILLER.

Essays on the Latin Orient. By WILLIAM MILLER. (Cambridge: University Press, 1921.)

In this substantial volume, which is a collection of reprinted and revised articles[1] and monographs, Mr. Miller continues his work on the Latin Orient, of which *The Latins in the Levant* was an earlier instalment. The present volume has a wider chronological range than its predecessor, which was confined to the period between 1204 and 1566. To this chapter iii, 'Frankish and Venetian Greece', which fills nearly half of the present book, corresponds; but we now have on a smaller scale earlier chapters, 'The Romans in Greece' and 'Byzantine Greece', and at the other end chapters on 'Turkish Greece' and 'The Venetian Revival in Greece', which carry the story down to 1718. Fresh ground is broken also in chapter iv, 'The Genoese Colonies in Greece'. The seventh and last chapter groups together as 'Miscellanea' six papers on subjects which do not easily fall into the general framework of the book. The whole is the work of a scholar who has made this province of history peculiarly

[1] See *ante*, xxxv. 343.

his own with all its complicated and bewildering details, which only give way to comparatively simple conditions under the deadening influence of the Turkish domination. No part of the Frankish history of Greece is more full of these details than Mr. Miller's new chapter on the history of the Genoese colonies in Phocaea, Chios, and Lesbos, interesting, as he points out, as being an early example of the government of a colonial dependency by a chartered company. Of the thirteen sections into which the chapter on Frankish and Venetian Greece is divided, the most interesting are those dealing with the marquisate of Boudonitza and with Crete and the Ionian Islands under Venetian rule. The earlier sections on the Frankish conquest and on Athens under the dukes and Florentines deal with subjects already treated in *The Latins in the Levant*, and suffer also somewhat from the repetitions inevitable in a book made of a collection of independent articles. A few points in the book call for more detailed notice.

In the chapter on Byzantine Greece the Slavonic theories of Fallmerayer are discussed, and the author points out how small was the basis upon which the whole imposing structure was raised. But something more may now be made of the evidence of the language than the bare statement, itself perfectly true, that not 'even the vulgar language contains any considerable Slavonic element' (p. 35). Dr. Gustav Meyer's researches (*Neugriechische Studien*, ii) have shown that of 273 Slav words in use either generally or for the most part only in certain dialects, more than two-thirds are confined to northern Greece and especially to Epeirus, whilst the Peloponnese can claim as peculiar to itself no more than thirty-one. This indicates that it was in northern Greece that the Slavonic invasions were on a considerable scale, rather than in the Peloponnese, upon which Fallmerayer laid so much stress, and supports Mr. Miller's use of the quotation on p. 39 from the *Epitome of Strabo's Geography* with its stress upon 'all Epeirus' in the list of regions colonised by the Slavs. A saying that the Greek clergy 'preferred the turban of a Turkish priest to the red hat of a Roman cardinal' is quoted on p. 77, and we do not question the correctness of the attribution, from Voltaire. But in a book on Greece it would have been better to give the saying in its original form, 'Better to see in the midst of the city the Turkish turban (φακιόλιον) than the Latin mitre (καλύπτραν)', and to refer to Ducas, who puts it (p. 148 CD) into the mouth of the Grand Duke Notaras at the time of the Turkish siege. On the subject of the Tzakonians the author (p. 98) mentions the list of Tzakonian words given by the Byzantine satirist Mazaris. The curious point about these words is that there is no other evidence to connect any of them with Tzakonian, whilst one at least of them (ἀρχόντησαν) is definitely non-Tzakonian, but is characteristic of the common Greek of the north-east Peloponnesos. It is not likely that Mazaris knew anything of the dialect, and it would seem that he jotted down a few barbarous forms, and that the nearest he got to Tzakonian was that some at least of them were in vulgar use in the Peloponnese. He should not be quoted without qualification as a medieval evidence for Tzakonian. The name of the castle where Mohammed II broke wrists and ankles of the Albanians, Tokmak Hissari, does not mean, as we are told on p. 104, 'the castle of the ankles' but 'the castle of the mallet'. By the side of a most useful facsimile of the Karditsa inscription on the battle of the Kephissos the author gives

on p. 134 Buchon's transcription with its obvious errors: IIIOY for ΑΓΙΟΥ in the second line and AYTA for AYTEI (αὕτη) in the eighth. The inscription is not altogether easy reading, and it would have been better to give a fresh reading of it in ordinary minuscules, rather than a version which perpetuates Buchon's errors without clearing up the difficulties. With regard to Buchon's AYTA the facsimile is clearly correct, as ll. 7 and 8 are in the metre into which the iambic trimeter developed in Byzantine hands, dodecasyllabic lines which must have an accent on the penultimate syllable, and therefore at the end of such a verse the αὕτη of the facsimile scans, whilst Buchon's AYTA (αὐτά) does not. *Codespóta* was the title, the author tells us on p. 302, familiarly given to the Chian officials known as *rettori*. But when he explains it as 'joint-lords' he must surely be wrong. The derivation is to be sought in Ducange's entry: οἰκοδεσπότης, *paterfamilias*, rather than in *co* δεσπότης.

In the passage on pp. 368, 369 on the *Stradioti*, which has already appeared in *The Latins in the Levant*, p. 482, we are told that 'a whole literature of their poems has been published, mostly written in a peculiar dialect resembling that now spoken in Calabria, where many Greek songs are still sung by the descendants of the numerous Epeirote families settled there after the Turkish conquest'. This can hardly be taken to mean anything else but that the published poems of the Stradioti are written in the Greek dialect now spoken in a few villages in Calabria, and that the Greek songs still sung there were brought with the people from their homes in Greece. We do not know any other published poems of the Stradioti except those in the volumes of Sathas' Μνημεῖα (vii–ix) referred to by the author, and these are in Italian interspersed with a few, and only a few, Greek words and phrases. The modern Calabrian folk-songs, though written in genuine Greek, are, so far as they have been published by Morosi, shaped upon Italian models and entirely different in form and content from the folk-songs of any part of Greece, and must therefore have been composed after the people came to Calabria.

The runic inscription carved on the marble lion now outside the Arsenal at Venice, whither it was brought in 1688 from the Piraeus by Morosini, is mentioned three times, and at least on pp. 64, 396, the writer adopts the old view that the inscription contains the name of Harald Hardrada. This error began with Rafn in 1856, and from him passed into Hopf's *Geschichte Griechenlands*, and has thus gained currency. But Sophus Bugge in 1875 wrote that this reading is purely fanciful; that the most that can be said is that the inscription is a variety of runic, and written by a Varangian of the eleventh century. Bugge's view is adopted and Rafn's rejected by Vilhelm Thomsen[1] and by Gregorovius,[2] and the point has been fully worked out by Lampros in a note to his Greek translation of Gregorovius.[3]

It is a matter for congratulation that it has been found possible to reissue these chapters, and that so much interesting and important work has not been left half-buried in the old files of various periodicals and reviews. The book is a worthy successor to *The Latins in the Levant*.

R. M. Dawkins.

[1] *The Relations between ancient Russia and Scandinavia*, 1877, p. 109.
[2] *Geschichte der Stadt Athen im Mittelalter* (3rd ed., i. 170). [3] Ibid. p. 237.

Short Notices

Miss Lina Eckenstein, one of Flinders Petrie's excavating party of 1905–6 at the ancient Egyptian copper and turquoise mines, has written a little *History of Sinai* from the earliest times to the present day (London: Society for Promoting Christian Knowledge, 1921). Egyptians worked the mines in Wâdî Maghâra and offered at the neighbouring shrine of Hathor at Serabît El Khâdim at least as early as the first dynasty, and thereafter, with interruptions, until the end of the New Kingdom, about 1100 B. C. In support of the evidence in the name of Sinai of a primitive worship of the moon-god (Sin), Miss Eckenstein quotes the oldest Egyptian monuments found on the spot; and she would place the primary goal of the Exodus at the ancient cult-centre of Serabît. The next records of this barren region are graffiti of Nabataean caravans, after which arrives a flood of stories of anchorites and monasteries, and of pilgrims to the sacred places. In the fifth century came the remarkable lady Etheria who recognized all the landmarks of the Exodus, among them the vast ruts made by Pharaoh's chariot-wheels at Suez. The flood of Christianity has long since narrowed down to the convent of St. Catharine, and geographers and archaeologists in late years overshadow the pious benefactors and pilgrims. Miss Eckenstein seems to have collected her facts and traditions industriously, so far at any rate as they are accessible in English, French, or Latin, and has furnished her book with a useful index; but her bibliographical references are unsatisfactory, and she should have known that it was 'Abbâs Hilmy and not Husein Kâmil who succeeded Tewfik as khedive of Egypt in 1892. F. Ll. G.

Mr. P. A. Means, in his introduction to the *Memorias Antiguas Historiales del Peru* of Fernando Montesinos, which he has translated and edited for the Hakluyt Society (1920), attempts to 'strip away all the husks of credulity and superstition' and to detect 'the folk-lore material hidden in Montesinos', and particularly the part derived from the works, now lost, of the Jesuit Blas Valera. A series of tables gives Maya chronology from 150 B. C. and Andean chronology from A. D. 150, Montesinos's list of ninety pre-Inca kings, and the editor's revised list which reduces the number to about fifty, and lastly an outline of Andean history based on archaeological research and an adaptation of the list of kings to the result of these researches. The book is intended for 'the student of Andean proto-history'. F. A. K.

The fifth, sixth, and seventh volumes of the handsome edition of *The Collected Historical Works of Sir Francis Palgrave, K.H.*, published at the Cambridge University Press (1921), contain *The History of the Anglo-*

Saxons and *The Rise and Progress of the English Commonwealth, Anglo-Saxon Period*, with its massive supplement of 'Proofs and Illustrations'. These books were originally published in 1831 and 1832, and, as is well known, differ widely in their scope. The *History of the Anglo-Saxons* was planned on the model of Scott's *Tales of a Grandfather* and was issued in the 'Family Library': it was to be a book 'that you may carry to the fire, and hold readily in your hand'. Palgrave would no doubt have been surprised to see his slim little volume reappear in large octavo, with a collection of most valuable historical and philological notes, and a series of pedigrees contributed by that learned and exact scholar, Professor H. M. Chadwick. The *English Commonwealth* stands on a very different footing. It represents an important stage in the interpretation of the materials for the history of our institutions, and it will be read at the present time with a larger amount of agreement than it would have received fifty years ago. The republication of the two books together enables the reader to understand something of the extraordinary breadth of the author's accomplishments. We have here a *History of the Anglo-Saxons* in 233 pages. The concluding chapters of the *English Commonwealth* contain a survey of the same period in 179 pages; and in the volume of 'Proofs and Illustrations' it is once more dealt with in 'summaries' arranged under the different 'heptarchic' kingdoms, which extend to 335 pages. And yet in going over the ground three times Palgrave has succeeded in producing three almost entirely independent presentments of the course of events. In the *English Commonwealth* he introduced a great deal of illustrative matter relating to Wales and Scotland, and in the volume of 'Proofs' he checked the succession of rulers by means of full excerpts from charters. That many of the charters are now rejected as forgeries need not be concealed; but Palgrave wrote some years before Kemble began publishing his *Codex*. In like manner he is not to be reproached for his treatment of the Anglo-Saxon laws, for the critical editing of them belongs to a later time: he had not even Thorpe to refer to, far less Schmid or Liebermann. His work will nevertheless be consulted by scholars for its originality, its wealth of suggestion, and its prodigal use of comparison (not always indeed relevant) with the legal customs of Scandinavia and other lands; but it must never be forgotten that it is a work published in 1832. The present edition is a faithful reprint in which none but manifest slips have been corrected, and these changes are carefully marked by square brackets. We have noticed a single instance in the *History of the Anglo-Saxons* in which 'brother' has been erroneously altered into 'son' (v. 67). The writers of the notes, on which several hands seem to have been engaged, have wisely limited themselves to details and their references are extremely useful. Now and then a spurious authority is allowed to pass, but such instances are exceptional and need not be here noticed. We must, however, deplore that it was thought necessary to furnish translations of all the easy Latin of the texts quoted, and even of modern French, so that the volume of 'Proofs and Illustrations' is swollen to the ponderous bulk of 942 pages. Although a large part of the materials which Palgrave printed from manuscripts has been published since his time, still these 'Proofs and Illustrations' remain a quarry in which the student will continue to dig.

and seldom without profit. It need not be said that it is not a book for the beginner, and through all the three volumes the reader must keep his critical powers actively awake. R. L. P.

In his *History of Pisa* (Cambridge: University Press, 1921) the late Mr. W. Heywood has traced the development of the Tuscan maritime commune during the eleventh and twelfth centuries. He relates at length its wars with the Saracens, its rôle in the Crusades, its commercial activities, its bitter rivalry with Genoa. He has worked through the local sources with admirable thoroughness, quoting freely from them in the foot-notes. Unfortunately he has limited his researches to the contents of his own library, which appears to have been inadequate for his task. He constantly cites his authorities at second hand or from obsolete editions. Thus (p. 16) he quotes Gerbert from Amari's *Storia dei Musulmani di Sicilia* for a legend that Gerbert as Pope Silvester II in 999 proclaimed a crusade against the Moslems; but M. Havet in his edition of the letters has shown that the letter in question was written some years before Gerbert became pope, probably in 993, and that it contains no idea of a crusade in it. The legend thus becomes yet more legendary. On p. 105 by quoting Otto of Freising through the medium of Muratori's *Annali d'Italia* he is led into a hopeless misrepresentation of the bishop's words. 'Otto of Frisingen saw the Lucchese captives "wasted, squalid and miserable in the dungeons of Pisa, drawing tears of compassion from the eyes of every passing stranger"' is Mr. Heywood's rendering, to magnify the triumph of the Pisans over the men of Lucca, of the following passage: 'Porro ex Pisanis et Lucensibus non tantum plurimi ferro cesi compendio mortis miseriam miserabiliter terminavere, sed et innumerabiles utrovis comprehensi ac longa, ut ipse vidi, carceris inedia et squalore macerati omnibus pretereuntibus lacrimabile humani casus in se spectaculum prebent' (*Chron.* vii, c. xxix). But for the history of Pisa the most extraordinary oversight is displayed when the author speaks of the constitutions granted by Frederick Barbarossa through the agency of his chancellor Rainald of Dassel in the year 1162. 'Although', he says (p. 159), 'the *concordia* with Lucca is the only one which has come down to us, it is practically certain that similar conventions were entered into with other cities.' Certain indeed, for in addition to the convention with Lucca, similar conventions were granted and are printed in the *Monumenta Germaniae Historica, Constitutiones et Acta Publica*, i, pp. 282 ff., for Genoa, Cremona, Ravenna, and Pisa itself. This important grant of privileges to Pisa Mr. Heywood has entirely ignored, and when, nearly thirty years later (1191), it was confirmed in almost identical words by Henry VI, he gives a full account of it and regards it as a striking innovation; 'these were the prizes', he writes, 'which might well be Pisa's, if Henry fulfilled his promises. What wonder that the enthusiasm of the citizens for the Sicilian expedition rose to fever-heat' (p. 222). It is a pity that an otherwise useful and careful piece of work should be spoiled by such blunders. A. L. P.

Dr. A. Cartellieri's article 'Die auswärtige Politik der Staufer' contributed to the *Korrespondenzblatt des Gesamtvereins der deutschen Geschichts-*

und Altertumsvereine, 1921, contains little that is new; many of his conclusions the author has already published in a series of monographs dealing with this period, viz. *Die staufischen Kaiser und die Auffassung ihrer allgemeinen Politik* (*Neue Heidelberger Jahrbücher*, xiii, 1904); *Heinrich VI*, Leipzig, 1914; *Philipp August und der Zusammenbruch des angevinischen Reiches*, read before the International Historical Congress in London, 1913. However the present article is not without its value. It attempts to explain and connect together the intricate diplomatic history of the period. During the reigns of Conrad III and Frederick I the danger which threatened the empire came from the Normans of Sicily; and the menace which alliances with the eastern empire, with France, and with England were unable to dispel was only finally overcome by the marriage of the heir to the empire with the heiress of the Norman kingdom. The principal feature which marks the later part of the period with which Dr. Cartellieri deals was the alliance of Hohenstaufen and Capetian on the one side, of Welf and Angevin on the other. Much research has been done in recent years on various aspects of Hohenstaufen policy. The notes at the end of the article contain a useful and critical though very brief review of the results of work done by German scholars during and since the war which is still not easily accessible to English readers.

A. L. P.

Lady Goodenough has rendered a service to students of the middle ages and to lovers of a romantic narrative by giving them in two volumes the first English translation of *The Chronicle of Muntaner* (London: Hakluyt Society, 1920–1). Buchon considered his edition of 1827 so unsatisfactory that he revised it in his second edition of 1841, and nearly eighty years have elapsed since the Italian translation of Moisè and the German version of Lanz. Since then the researches of Hopf and Don Antonio Rubió y Lluch have illuminated that part of the *Chronicle* which refers to Muntaner's experiences in Greece. Here the translator does not seem to be quite abreast with modern scholarship. For example, there is no mystery now (ii. 629, n. 1) about the 'son of the count of Aria'. Hopf[1] showed from the Angevin records that the person meant was Isnard de Sabran, son of Ermengaud, Count of Ariano in Apulia. The duke of Athens (ii. 568) whom Muntaner 'found ill' at Thebes was not Guillaume but Guy II, and of the other persons mentioned in that connexion 'En Juan Teri' or 'Tari' was Giovanni Quirini, 'Miyot' was Minotto, and 'Juan de Misi' or 'de Amici' Jean de Maisy. The famous cross of the Zaccaria (ii. 561) is now at Genoa. As the Latin kingdom of Salonika lasted only till 1223 and was never contemporary with the Greek empire at Constantinople, it should scarcely figure on the map at the end of volume ii. Muntaner's *Chronicle*, as the translator says in her excellent introduction, is 'a very human document', whose author commands our sympathies, and English readers are fortunate in at last having a translation which reads like an original piece of good English. There are three maps, a table of contemporary rulers, and a copious index.

W. M.

[1] *Apud* Ersch und Gruber, *Allgemeine Encyklopädie*, lxxxv. 344.

As Heft 67 of the 'Abhandlungen zur Mittleren und Neueren Geschichte' there appears *Der Kampf um Sizilien in den Jahren 1302–1337* by Dr. Eugen Haberkern (Leipzig: Rothschild, 1921). Dr. Haberkern handles, in a careful and scholarly manner, a subject which has hitherto received inadequate treatment. His work is in effect a political history of the reign of Frederick II (or III, as he preferred to style himself) from the peace of Caltabellota to Frederick's death in 1337. The author has been able frequently to throw new light on the period by the use of sources as yet unprinted. He is not overwhelmed by details, and tells the story in a picturesque and interesting manner; the notes are relegated to the end, so that the reader's attention is not distracted from the narrative. Frederick's career deserved a worthy historian. The young prince of Aragon, who had accepted the invitation of the Sicilians when they were deserted by his elder brother; who maintained his purpose resolutely to establish a dynasty of kings of Sicily, in spite of the peace of Caltabellota and the title of 'rex Trinacriae' that was all that the pope would allow; who faced the allied powers of the papacy and the Angevins of Naples with little support other than the diplomatic assistance of the kings of Aragon, his brother and nephew, and occasional backing from the Ghibelline party in Italy—such a man was a fitting hero for a larger stage. Dr. Haberkern pictures him as a medieval knight, chivalrous and impetuous, anything rather than a diplomatist. But Frederick could bide his time when necessary, and bear the frequent blows of fortune with patience. It was surely not rashness, but prudence, that caused him to risk so much when he allied himself with the Emperor Henry VII; here was the opportunity to realize his highest hopes, and he seised it. He failed, only owing to Henry's death. When Lewis the Bavarian came into Italy, Frederick risked nothing by joining him, but it was an excess of caution that made success impossible on this occasion. As the narrative proceeds, it becomes increasingly a matter of surprise that Frederick was not overwhelmed by his difficulties. The temperament of his great enemy, Robert of Naples, was an asset in his favour; there were frequent occasions, it seems, when Robert, had he struck with all his power, must have reconquered Sicily. But it is unwise to speculate; the alliances and counter-alliances, as Dr. Haberkern shows, were so intricate that it was impossible to tell what the enemy's strength might be, difficult to estimate one's own. The internal politics and economic condition of Sicily are only touched upon by the author, so far as they affect the position of Frederick; they become increasingly important as the reign advances, and the situation at his death seems so hopeless that Dr. Haberkern is careful to insist that Frederick had not really failed. This the future was to prove, more certainly than the past, to which alone the author looks. There is one defect in this excellent treatise. It contains no table of contents, and there are no chapter-headings. There is an index, but only of names, which is of little value by itself. Z. N. B.

A book on St. Colette can hardly fail to be interesting, but *La Belle Vie de Sainte Colette de Corbie*, by E. Sainte-Marie Perrin (Paris: Plon, *s.a.*), cannot be taken as a serious contribution to history. On p. 40 we read:

'Father Eubel, who has continued the publication of the Bullarium Franciscanum begun by Sbaralea, thus sums up the results of his investigations in the *Annales Bollandistes*': then follows a long quotation from Father Van Ortroy's review of the seventh volume of the *Bullarium* in *Analecta Bollandiana*, xxiii. 402. This is typical of the writer's hopelessly slipshod work. A. G. L.

Miss Jessie H. Flemming's *England under the Lancastrians* (London: Longmans, 1921), which is the third of the London University Intermediate Source-books, is marked on the whole by the same satisfactory features as its predecessors. The notes on the sources have been carefully compiled and the selection of passages is judicious, though one misses anything bearing on the youth of Henry V and William Lomner's letter describing the murder of Suffolk. The length of the period covered must, however, have made the choice of material difficult. The translations from Latin leave something to be desired: 'maledicti seminaverunt discordias inter dominum regem et prefatum comitem' becomes 'evil-speaking people sowed discord between the lords of the realm and the aforesaid Earl' (p. 13); 'diu transivit de loco ad locum' does not mean 'he went daily from place to place' (p. 25); 'in quibus prae ceteris confidebat' is expanded into 'whom he had chosen from amongst them all to be made privy to his plans' (p. 37, where the most interesting and important part of the passage relating to Scrope is omitted altogether). There are other doubtful renderings, and their presence raises the whole question of the usefulness of such source-books for the purpose of teaching. If original sources are to be studied in translations, the translation must be as precise and accurate as possible, otherwise something is inevitably added to the original which it does not contain. It may be doubted whether it is desirable that young students should study chronicles either in translations or extracts; the bias and peculiar quality of the original will have vanished, and there is left little scope for the training of the student in power of discrimination, which is the most valuable part of the exercise. The objection does not apply in the same degree to the collection of documents, which can be more safely dealt with apart from their surroundings and are often difficult of access. It may be questioned whether in these volumes it would not have been better to omit the extracts from chronicles relating to political history (which are of necessity incomplete) altogether, and to confine the selection to the illustration of social and economic history, &c., for which the collection of material in the present volume is really useful to others than those for whom it is primarily intended. C. L. K.

Dr. Vincenzo Ferrari gives an account, 'Il "De republica" di Tito Livio de' Frulovisi', in *Studi di Storia, di Letteratura e d'Arte in onore di Naborre Campanini* (Reggio-Emilia, 1921), of a hitherto unstudied work of Frulovisi, the biographer of Henry V. Dr. Ferrari thus confirms a conjecture that such a work existed and was given to Oxford University by Humphrey duke of Gloucester.[1] The *De Republica* has a special interest, to be expected from Frulovisi's plays of contemporary life, in that it com-

[1] See *ante*, xxx. 77.

bines classical commonplaces with examples from fifteenth-century Italy. It also shows Lionel of Este as his patron after he quitted England. The complete publication of this new text of an undeservedly neglected humanist is much to be desired. C. W. P. O.

Mr. F. L. Taylor's essay on *The Art of War in Italy, 1494–1529*, which won the Prince Consort's prize in 1920 (Cambridge: University Press, 1921), is a very serviceable work on the revolution in Italian warfare caused by the French invasion of 1494. He traces its effects separately on the several services, infantry, cavalry, artillery, and siege warfare. A chapter named 'Tactics' is illustrated by short accounts of the battles of Fornovo, Cerignola, Agnadello, Ravenna, Novara, Marignano, Bicocca, and Pavia, while a valuable appendix deals at length with Ravenna, for which authorities are numerous, and where the general position is clearer than usual, though there are differences in detail, especially in relation to the death of Gaston de Foix. If the book is, as we hope, enlarged, more space might be given to Agnadello, which had important results, and is interesting both for strategy and tactics, though not easy. The mere brook, across which it was fought, can hardly be described as a river such as the Taro at Fornovo or the Ronco at Ravenna. The high ground of which Mr. Taylor, with other writers—for example, Ranke—speaks, is imperceptible. When the action was engaged, Alviano was not present, and when he reached the attacked rear-guard it was scarcely possible for him, apart from his temperament, to break off action. In that case the French would have turned the Venetian rear instead of their van, which Pitigliano had believed to be their objective, and perhaps originally was. We may draw the conclusions that the Italians, in spite or because of the Renaissance, were behind the rest of Europe in the art of war, and were at the moment singularly lacking in great generals, such as Carmagnola, Francesco Sforza, or the Piccinini. No great improvement was shown by the close of the period in Italian infantry or cavalry, but the scientific services were quick to adapt and improve upon the arts of gunnery and the attack and defence of fortresses, in which their experts became masters. The actual effects of the French guns in 1494–6 are perhaps usually exaggerated; the two or three fortifications which they knocked to pieces were of trifling strength; it is doubtful what practice they would have made against the new constructions at Sarzana or Ostia; as field artillery at Fornovo their execution was not great. The chapter on military writers will be found useful. Machiavelli perhaps plays too preponderant a part, but that is inevitable, for Machiavelli is the modern historians' variant in the text of the old lady's phrase, 'That blessed word Mesopotamia'. E. A.

The *Studier i Dansk Herreguards Arkitektur i 16. og 17. Aarhundrede*, by the well-known Danish architect and historian, Vilhelm Lorensen, have been published by the Dansk Historisk Forening as part, and instead of the regular issue for 1920 and the first six months of 1921, of the *Dansk Historisk Tidsskrift*, and they certainly repay this munificence. Taking their subject up at the most interesting period, that of transition between

the later Gothic or national Norse and the spreading Renaissance or classical European style of building, they are not merely and not even in the first place interesting to the historical student of architecture or the arts generally. The author purposely turns his attention throughout to the social and economic aspects of the manor-house, which links the royal palace and the ecclesiastical stronghold of the middle ages with the town architecture of modern *baroque* centuries. His research always starts from the conditions of the building sites and the frequent changes in them caused by the adventures or the slow development of earlier times, especially the various relations between open sites (*Byggesteder*), farm-yards (*Ladegaarder*), and castle-mounds (*Voldsteder*). Next come the groundwork, the building itself, the inner division and decoration, the artistic style, and the relative parts played by the manorial lord and the architect. Even before it is possible to assign certain buildings to architects of name and reputation, unknown artists' personalities are constructed from types of houses after the fashion of the historian of medieval painting and woodcutting. Hr. Lorenzen has successfully united different lines of inquiry which are usually separated according to either periods or subjects, and although the comparative smallness and uniformity of his area facilitated this undertaking, the history of European society would greatly profit by the imitation of his model study at least for single territories or provinces of the larger European countries. C. B.

The acquisition by the university of Chicago of a manuscript of 'Die Bergchronik des Hardanus Hake, Pastors zu Wildemann' occasioned the selection by the late Miss Helen Boyce of *The Mines of the Upper Harz from 1514 to 1589* as the subject for her research (Menasha: Collegiate Press, 1920); but the larger purpose of her essay is 'to draw the attention of the English reader to the historical importance of German mining', and, as far as the sixteenth century is concerned, this purpose is admirably fulfilled in the two main chapters, which give a full and scholarly account of the mining enterprises, policy, and administration of two dukes of Brunswick-Wolfenbüttel, Henry the Younger (1514–68) and Julius (1568–89). The varying features of Henry's struggle with Goslar and Brunswick during the wars of the Reformation delayed the full development of his mining policy till 1552–3, when he took over the regalities and pre-emption of the Rammelsberg mines from Goslar and was free to develop those of the Upper Harz in Grund, Wildemann, Zellerfeld, and Lautenthal unopposed by Brunswick and the Schmalkaldic League. The career of Julius as a ducal captain of industry, frugal and hard-working, a scientific metallurgist and a keen man of business—who added to his mining and metal-working enterprises the making of salt, the quarrying of marble, the production of vitriol, and the mining of coal which he introduced into his smelting-houses and salt works, and who, like Boulton and Wedgwood, planned a canal system as an outlet for his varied products—is one of the most interesting chapters in the economic history of the sixteenth century. Not the least significant of his achievements was the foundation of a university at Helmstedt with a faculty of jurists to further the study and adoption of Roman law. The conspicuous financial

success of this policy sufficiently accounts for the continual efforts of the Elizabethan government to find a similar fiscal resource in mining and the extractive industries during the same period. Miss Boyce's general views, whether implicit or explicit, are sometimes open to criticism, as when she regards the abstention of Julius from any share in the European conflicts of his time as one of the causes of the Thirty Years' war, or implies that the 'careful regulation' of an industry as practised by civic or national authorities in the sixteenth century was an essential factor in its prosperity. The general background provided in her two last chapters might have gained in breadth if Dr. J. Strieder's recent studies in sixteenth-century capitalism had been available, but her essay as a whole is the best account of early German mining accessible in English, and by her death on the eve of its publication Chicago University has lost a promising historian. G. U.

Miss Cicely Booth's *Cosimo I, Duke of Florence* (Cambridge: University Press, 1921), deals with a period in the history of Florence which is perforce something of an anticlimax. The days which had already become to Italians the *lieti tempi*, before the first French invasion of 1494, were gone never to return; Spanish domination was the prevailing factor in the political situation. Of the Florence of Duke Cosimo perhaps the best that can be said is that it is the nearest approach which the sixteenth century can show to an earlier and a happier age. Florence in 1537 found herself in a dilemma, familiar to students of her history. On the one hand, an irradicable love of liberty impelled her to make one more bid for a republican form of government. On the other hand, such were the evils of party strife that the establishment of a republic brought with it grave danger of the loss of Florentine independence. The election of Cosimo dei Medici as duke was of the nature of a compromise. Some measure of political liberty must be sacrificed in order that Florence might gain a champion against the attacks of her own *fuorusciti* and the aggressions of France and Spain. The Florentines had on the whole little cause to repent their action. If Cosimo succeeded in making himself considerably more of a despot than his original supporters had contemplated, he gave his fellow citizens peace and justice to a degree hitherto unknown. He maintained friendly but independent relations with Spain. While consenting to rule Siena as a Spanish fief, he stole a march on Philip II by persuading Pius V to crown him as grand duke of Tuscany. He raised the prestige of Florence among Italian states and created a navy which acquitted itself bravely at Lepanto. The first Medici of the grand-ducal line was in fact a notable figure in sixteenth-century Europe, and, like his fifteenth-century ancestors (Cosimo, be it remembered, was a great-grandson of Lorenzo il Magnifico through his mother), he owed his position mainly to his personality. He showed tact, energy, capacity for detail, and great political acumen. Above all he had, as Miss Booth says, 'the essential quality of the Florentine statesman, that of so identifying himself with his city that her fortunes must needs be his, and no good come to him but Florence must indirectly share it'. Miss Booth has found fresh material for the domestic history of Duke Cosimo in the Florentine archives,

Carteggio dei Segretarii. From the letters of the ducal secretaries we gain a picture of court life in which Tuscan light-heartedness and informality competed with Spanish etiquette, and magnificence in public ceremonies went side by side with 'extreme domestic discomfort'. This is perhaps the most interesting chapter of a scholarly and attractive biography.

C. M. A.

Mr. F. A. Mumby, in *The Fall of Mary Stuart. A Narrative in Contemporary Letters* (London: Constable, 1921), again shows his happy knack in the not too easy science of historical selections. The series of letters he gives us begins with the marriage of Mary queen of Scots to Darnley, and ends with the time when she had fled to England to find herself the unwilling prisoner of her cousin Queen Elizabeth. Thus the period covers the strife with Darnley which ended in the Riccio murder, the favour of Bothwell, Darnley's murder, the Bothwell marriage, Lochleven, Langside, and flight. Not only does Mary Stuart shine as a letter-writer and 'a notable woman' in this collection, but also Queen Elizabeth, whether she wrote with her own hand or (when the Scots queen's fortune waned) by the hand of another. One of the most characteristic letters also is that of Catherine de Médicis, queen of France, to the English queen in favour of her prisoner. One is glad to find the letter (of 1566–8) which shows that Queen Mary's knowledge of her English adherents had never been allowed to be forgotten, and the contemporary Spanish references to Elizabeth's skill in temporizing about the English succession. Though wonderfully impartial, Mr. Mumby is yet against Mary in her relations with Riccio and Bothwell. It is difficult—if this is not being too captious—to see how he thinks the 'Casket Letters', as we know them, could 'prove' anything. The originals—whatever they were—are no more, and all we have are *ex parte* garbled translations or copies, so that any inference drawn from them must be a disputable surmise. We notice that he quotes the Venetian ambassador as calling the queen of Scots' half-sister the countess of Argyll, 'the Bastard of Holland', and wonder how this title was acquired. We notice also that he identifies her mother as Elizabeth Carmichael instead of Elizabeth Bethune of Creich.

A. F. S.

Dr. R. H. Murray has expanded a sermon preached in Trinity College, Dublin, in memory of its distinguished alumni and published it under the title *Dublin University and the New World* (London: Society for Promoting Christian Knowledge, 1921). The little volume gives an account of four New England worthies who were at some time connected with Trinity College. Of these two, John Sherrard and Samuel Mather, were obscure and respectable divines; the other two, Increase Mather and John Winthrop the younger, belong to general history. In passing one may note that Dr. Murray takes a more favourable view of Increase Mather's activities, especially in the question of the restoration of the charter, than is taken by the most recent American historians. An appendix gives brief notices of some Trinity emigrants and immigrants.

H. E. E.

The life of *Henry Duke of Grafton, 1663–90*, by Sir Almeric Fitzroy (London: Christophers, *s.a.*), contains many really excellent portraits,

some of which are here reproduced for the first time. In particular there are two most interesting portraits of Charles II, one representing him as a young man, the other taken in his old age. Unfortunately the text of the book is less valuable. The absence of any private letters of Grafton's deprives his biography of much of its unity, and almost compels the insertion of some general history to supplement the relatively few personal details. It is regrettable, however, that Sir Almeric thought fit to insert some very dubious and irrelevant generalisations about the foreign relations of Charles II. 'The malice and misunderstanding of historians' may have obscured the aims of that monarch and miscalculated their results, but it is impossible to accept the view here advanced without proof that French money enabled the king 'to pursue a policy which was neither Dutch nor French, but essentially British, or, in a larger sense, European'. The author's summing up of the evidence on single issues does not seem any sounder than his verdict on a whole period. An example is supplied by his account of Grafton's conduct in the autumn of 1688. According to an original memoir in the *Life of James II*, Grafton, disappointed at not being offered the command of James's fleet, tried to corrupt the sailors' loyalty and planned to seize Dartmouth, the admiral, on board Captain Hastings's ship. Sir Almeric calls this 'unsupported fiction', and quotes a letter written by Pepys to Dartmouth that Grafton had the royal permission to serve as a volunteer in Hastings's ship. But if Grafton wished to plot against James in the navy, he could only be present as a volunteer since James gave him no official position. Furthermore James's account is not unsupported, for it is stated in the *Memoirs relating to the Lord Torrington*, who as George Byng was undoubtedly a leading conspirator on behalf of William of Orange, that there was a design to seize Dartmouth on board Hastings's ship and to give the command of the fleet to Grafton. Nevertheless, in spite of the fact that there are also a number of minor errors, Sir Almeric has proved his contention that Grafton showed an unusual precocity in achieving so much in the twenty-six years allotted to him. G. D.

In *The Social and Industrial History of Scotland, from the Union to the Present Time* (London: Longmans, 1921), Professor Mackinnon completes the survey begun in the volume which he published in 1920. A book which in 274 pages deals with every aspect of social life during two busy centuries must necessarily omit much, and occasionally the author omits just what the reader would most like to know. In the 57 pages which are allotted to the eighteenth century the main thesis is that until about the year 1750 little progress was made in any direction, but that the second half of the century 'may be described as a period of revolution'. This is incontestable; but the causes, and indeed the processes, of the great change are left tantalisingly vague. When, for instance, and how, did the Scottish farmer begin to bring his 'outfield' under proper cultivation? Considering the short space at his disposal it is too bad of Dr. Mackinnon to tell us twice (p. 33 and p. 37) of the schoolmaster's perquisite of the slain fighting-cocks, and twice, in identical phrases, of the 'amateur devotees' of vocal and instrumental music.

'who performed at the concerts given in St. Cecilia's Hall in the Cowgate' (p. 40 and p. 47). In accordance with ancient custom the Glasgow Guild of Hammermen is condemned for its treatment of James Watt, and no reference is made to the able vindication of that body published in 1912.[1] The greater space devoted to the remainder of the period permits both of a deeper analysis of the subject-matter, and of a fuller treatment of each subsection. The statistics, which are numerous, have mostly been culled from secondary sources, and though informative in themselves, they are difficult to use to advantage, since no attempt has been made to reduce them to a common measure. Prosperity is reckoned sometimes in terms of the 'personnel' or the machinery of production, and again in the quantity or the cash-value of output or export; the years between which expansion is measured are hardly ever the same, and the abnormal war-period, omitted in some cases, is in others included. Hence the book lacks unity; but none the less it contains much that is instructive, and its broad outlines are clear. The steady decline of agriculture and of fishing is not nearly balanced by the development of stock-breeding—real though that has been—and the social and economic problems of the future will centre round the great towns and the great industries. Dr. Mackinnon's book will certainly present to the young student a fair picture of 'the condition of Scotland', and if it drives him to examine more fully any of the great questions raised, it will have achieved its end. Not the least of the author's merits is that he has put on record the services of some whose names are famous throughout the world of business, but who are unknown to the general public. At the present moment Scotland is once more beginning to realise her debt to these bold 'captains of industry', and the story of their achievements will be read with interest. J. D. M.

Mr. A. Mervyn Davies's essay, *The Influence of George III on the Development of the Constitution* (London: Milford, 1921), was awarded the Stanhope Prize last year. It arrives at the conclusion that although George III, by his treatment of the whig party, indirectly contributed to the cause of parliamentary reform, the effects of his influence were more political than constitutional. The conclusion is orthodox, but the accuracy of the author's facts is not always above reproach. Nothing could be further from the truth than the description (p. 15) of Lord Chatham's ministry as an 'avowed attempt . . . to establish . . . government by divided, incoherent administrations which would place no obstacle between the king and his object' with 'no common acceptance of the leadership of a "First Minister"'. The erroneous assertion (p. 18) that George Grenville, as first lord of the treasury, 'was not allowed to have any share or voice in the secret bribery' of members of parliament is presumably to be attributed to a confusion between Grenville's position in Lord Bute's cabinet and his position in his own. The statement (p. 37) that 'the fall of the Pitt-Newcastle Ministry was followed by a general proscription of the whigs' is a misleading description of three separate events occurring at intervals extending over fourteen months. Mr. Temperley did not write *Lord Chatham and the Whig Opposition* (p. 43), Pitt

[1] Lumsden and Aitken, *History of the Hammermen of Glasgow*, app. to bk. i, xii.

was not driven from office in 1762 (p. 63), and the whig party was very far from being 'completely excluded from office' after 1763 (p. 66).

R. R. S.

Mr. L. S. Mayo has written a careful and interesting account of *John Wentworth* (Cambridge, Mass.: Harvard University Press, 1921). As governor of New Hampshire (1767–75) and as lieutenant-governor of Nova Scotia (1792–1808) Wentworth did useful work in improving the communications, the education, and the military defences of these colonies. As surveyor-general of the Crown woods he succeeded in performing his duties without unduly exciting the opposition of the colonists. His failings, the most conspicuous of which was unblushing nepotism, belonged to his age; his merits, unswerving courage, loyalty, and devotion to duty, were peculiarly his own. Mr. Mayo has therefore been well advised in undertaking this volume. Moreover, the part relating to Peter Livius is of special interest to students of Canadian history and the text is illustrated by excellent reproductions of portraits by Copley and Wilson. It may be added that one sentence requires some alteration, wherein it seems to be implied that Franklin was a member of the British Parliament; that Oxford does not give doctorates of *Common Law*; and that those who are familiar with Sir William Anson's volume will hardly agree that Grafton 'is remembered, if at all, because of his amours and his horses'.

H. E. R.

The lectures delivered by Professor G. M. Wrong of Toronto University, under the G. S. Bennett foundation 'for the better understanding of national problems', at Wesleyan University, have been published under the title *The United States and Canada* (Cincinnati: Abingdon Press, 1921). As was inevitable in the circumstances the amount of historical and political exposition the lectures contain is of a somewhat elementary character; but they seem admirably adapted to bring home an understanding of the Canadian point of view to an American audience.

H. E. E.

For the purposes of his forthcoming life of Bishop Strachan, Mr. A. H. Young, of Trinity College, Toronto, found it necessary to learn as much as possible about Strachan's 'spiritual father', Dr. John Stuart. In this connexion he has edited, for the Kingston Historical Society, *The Parish Register of Kingston, Upper Canada, 1785–1811* (Kingston, Ontario: The British Whig, 1921). This register covered the whole period of Dr. Stuart's rectorship, and, though defective in places, is an invaluable storehouse of information regarding the early settlers in Upper Canada. (It must be remembered that Dr. Stuart, as a missionary and as bishop's official, worked far beyond the limits of Kingston itself.) Mr. Wood has contributed to the volume a careful and interesting introduction, and full biographical notices, when possible, of those mentioned in the entries. The same investigations had already called forth an undated pamphlet from the same press, *The Rev. John Stuart, D.D., of Kingston, U.C.*, an exhaustive genealogical study of the distinguished family founded by Dr. J. Stuart.

H. E. E.

In the eighth series of his *Études et Leçons sur la Révolution Française* (Paris: Alcan, 1921) M. Aulard has printed, *recentiores priores*, six lectures delivered since the outbreak of the late war. They are frankly popular, and deal with the annexation of the left bank of the Rhine by the First Republic, the relations between the American and the French Revolutions, and the claims of Landau and Sarrelouis to be considered French. Except for unpublished letters from Hoche on French policy in the country which it was proposed should form the Rhenish republic, these lectures contain little that is new, and where he touches on matters outside the French Revolution the touch is not as sure as we are accustomed to expect from M. Aulard. In his anxiety to prove the identity of the aims of the French Revolution and the American rebellion, M. Aulard surely obscures the differences between Locke and Rousseau; it is probable that the amount of religious toleration maintained in Maryland by the 'democratic' constitution of that colony is less than M. Aulard supposes; while it is surely anachronistic to speak of the Pilgrim Fathers as independents or levellers. The essay on Landau and Sarrelouis is a plea for the retention of these towns by France, and is a good illustration of the difficulty of settling frontier questions by an appeal to history. The case for Sarrelouis is easy; down to 1815 the city, which had been founded by Louis XIV, had never been other than French; not so Landau, which before its annexation to France had been in the empire. M. Aulard has therefore to face the problem of finding a principle which will defeat the German claims, but allow the French. Pure history would probably settle the question in favour of Germany; imperialistic motives, as may be imagined, are emphatically repudiated by M. Aulard, so force is ruled out as a principle; and eventually we are told 'qu'il faut seulement réparer les injustices commises depuis l'avènement du droit moderne, c'est-à-dire depuis la Révolution française' (p. 29). The formula is interesting and even convenient; it comes naturally to a student steeped in the cataclysmic ideas of the French Revolution; but one is tempted to ask what light it throws on the position which ought to be assigned in the new Europe to Avignon, Montbéliard, and the lands of the dispossessed princes of Alsace.

L. G. W. L.

Mr. Sidney Herbert's book, *The Fall of Feudalism in France* (London: Methuen, 1921), is a clear and exact summary of the work of that school of historians of which MM. Sagnac, Caron, Sée, Kovalesky, Loutchisky, are the most conspicuous representatives. It will render useful service to students by showing them an aspect, too frequently neglected, of the French Revolution, viz. the part played by the peasant class in the destruction of the old régime. Chapter i, 'Feudalism in 1789', depicts the feudal régime in France on the eve of the Revolution; chapter ii, 'The Peasants and their Programme', gives a summary of the principal complaints and needs of the peasant class; the next five chapters, 'The First Peasant Revolt', 'The Night of 4 August', 'Legislation and Insurrection, 1789–90', 'The Rural Revolution, 1790–1', 'The End of Feudalism', show how this programme was carried out by the assemblies, in spite of themselves, from fear of a peasant rebellion. Though the material of the book is not

the result of original research, the conclusions are Mr. Herbert's own, and, I am afraid, will come as a shock to the historical mind. To ascribe the name of 'primary cause' of the French Revolution to any category of facts is inadmissible when we consider how little we know of the history of the Revolution, how much less still of its causes. To say that 'institutions do not grow, they are made', is to ignore intentionally the history of institutions. To say 'The popular sense of right may often be wiser than the opinion of statesmen' is to draw a political conclusion which gives to a book of historical scholarship a partisan aspect which ought to be avoided. All generalizations, all conclusions on this aspect of the Revolution are premature until we possess complete local histories and studies of details, and until the following two questions of primary importance have been confronted and solved: (1) How far can we ascribe to the peasants what is given as their ideas in the very numerous documents presented in their name to the assemblies? (2) How is it that the peasant class, alleged by these documents to be in such a state of unthinkable poverty, was able, even before 1789, to acquire, by payment of ready money, the possession of a large part of the soil and to continue, in spite of its perpetual complaints, this policy of purchase during the first years of the Revolution? R. F.

In *Robespierre Terroriste* (Paris: La Renaissance du Livre, 1921), by M. Albert Mathiez, are some interesting papers, mostly reprinted from the *Annales Révolutionnaires*. Specially noteworthy are those on the two versions of the trial of the Hébertistes, on the banker Boyd, on 'Le Carnet de Robespierre', and on Robespierre's notes on and for Saint-Just's speech demanding the condemnation of Danton, Camille Desmoulins, Hérault, and the rest. M. Mathiez's aim throughout is to defend and exalt Robespierre and, as a means to that end, to blacken Danton. He shows his usual erudition and is, as usual, skilful in wringing the last drop of evidence from every fact that may tell against Danton; he puts the case in favour of Robespierre with equal skill. E. D. B.

Every student of the Reign of Terror will be deeply grateful to M. Mathiez for his book, *Un Procès de Corruption sous la Terreur—L'Affaire de la Compagnie des Indes* (Paris: Alcan, 1920). The strange and complicated affair with which it deals brought four of the most prominent deputies of the Convention to the scaffold in disgrace, and Danton, who had nothing to do with the crime for which they were tried, was tried along with them. It is therefore important to follow the business through all its windings, and hitherto it has been impossible for any one to do so unless he had access to the Archives Nationales; a patient study of the printed documents relating to the case scattered in many books was not enough. M. Mathiez has now, as he says, given historians the means of judging for themselves. To put the matter briefly: two or three deputies who had the ear of the Convention were accustomed to make speeches which sent stocks and shares up and down, in order that they might speculate in them. They, or some of them, finally ventured to alter certain clauses of a bill for winding up the Compagnie des Indes after the

bill had passed the Convention and before it became law; presumably they had been bribed by the directors of the company. No one noticed that the bill had been altered; but Chabot, one of the deputies concerned, took fright and denounced the others to the government committees, representing the financial manœuvres as part of a great political plot to bring the Convention into contempt. Fabre d'Églantine, the friend of Danton, had signed the altered bill, along with Delaunay, the undoubted villain of the piece, who forged the signatures of the rest of the committee responsible for the bill. Fabre protested that he had signed without noticing the alterations and was at first believed; later on he was arrested, and the question of his guilt or innocence is the crux of the affair. Opinions will probably always differ, for the written examinations of the accused deputies which would have shed most light on the transaction are missing, and M. Mathiez shows that the government committees, who were chiefly anxious to track the political plot, made no attempt to discover the truth about the financial scandal; they did not even examine the directors of the company. M. Mathiez has spared no pains over his book; he has printed all the essential documents in chronological order and has connected them by illuminating notes; he has given much that is new, including the bill as Delaunay submitted it to the Convention. Above all, he has given two excellent facsimiles of the bill, in its second form with corrections by Fabre, and in its final form. By the help of these the reader can grasp what really happened, as he never could before. It seems ungracious to ask for more when so much has been given, and it is only because M. Mathiez has been so liberal that one cannot help wishing he had reprinted the original of Fabre's *Précis Apologétique* (his defence) instead of the truncated version of the *Bulletin du Tribunal Révolutionnaire*, and had included *Jopino Lebrun's* notes on the trial, which are hard to get at and fuller in places than the *Bulletin*. E. D. B.

M. Lacour-Gayet's book, *Napoléon, sa Vie, son Œuvre, son Temps* (Paris: Hachette, 1921), is an attempt to evoke the great image of Napoleon I and his time. As might be expected from its dedication to M. Frédéric Masson, the work is after the manner of that author. It consists chiefly of a collection of anecdotes taken from sources most diverse, and we may add in some cases most dubious, including even the *Mémoires de Bourrienne*. From such an excellent scholar as M. Lacour-Gayet we had the right to expect different and certainly better things. The book contains numerous illustrations; those in colour are scarcely worthy of the house of Hachette; but the photographic reproductions cannot be too highly praised, and they form a most admirable collection illustrative of Napoleonic history. R. F.

Sir Plunket Barton is doing sound and useful work in writing the biography of Bernadotte, of which a second volume, *Bernadotte and Napoleon* (London: Murray, 1921), has now appeared. In this volume the author continues the history of Bernadotte from the time of the *coup d'état* of 1799 to the year 1810, when the marshal of France became the crown prince of Sweden, the negotiations which preceded this meta-

morphosis being described in great detail. The author has handled his material ably, and is studiously impartial in his judgements, but the book is marred to some extent by defects in style and arrangement. For example, the proper place to discuss the change of creed which accompanied Bernadotte's assumption of a new nationality is surely the volume which describes that assumption, and not a note to *Bernadotte; the First Phase*, the volume which closes at a date ten years before the change was even contemplated. The book would also have gained considerably in value by a more convenient arrangement of the bibliography. L.

The biography of another marshal of France has been made available for the large number of students who do not read Polish by MM. Kozakiewicz and Cazin's translation into French of M. Simon Askenazy's *Le Prince Joseph Poniatowski, Maréchal de France, 1763–1813* (Paris: Plon-Nourrit, 1921). As the translators say in their preface, 'Si le Prince Joseph appartient à la Pologne, le Maréchal Poniatowski appartient à la France', and we may note that it is the more admirable part of his life that belongs to France. Those later years do much to wipe out the memory of the mistakes and frivolities that made up only too great a part of the record of his earlier life. The translators have done their work adequately. There is an obvious mistake in the statement of Poniatowski's age on the title-page, and there are some misprints that have escaped the proof-reader's eye, but the book as a whole is free from minor defects. L.

M. René de Chauvigny, in his *La Résistance au Concordat de 1801* (Paris: Plon-Nourrit, 1921), has given an account of the clergy in the neighbourhood of Blois and Vendôme who refused to recognize the validity of the agreement made between Napoleon and the papacy. M. de Chauvigny has confined his work to a much smaller area than is covered by the books of P. Drochon or M. Latreille, and, within this area, has made a detailed study of the relevant correspondence and administrative documents. For the existence of this *petite église* there was much reason. The papal brief asking the French bishops to resign their sees showed by its language that the pope realized the severity of his demands. He claimed, indeed, to give precedents, but so moderate an observer as the Abbé Emery put no value upon them, while an English Roman catholic, Milner, the friend of Burke, Pitt, and Wilberforce, could find no parallel except in the attitude of Gregory the Great to the Celtic church in England. Again, the later years of the empire showed only too clearly that the papacy had little freedom in its dealings with Napoleon. The faithful of Blois and Vendôme had another excuse for being stiff-necked. The bishop of Blois (Mgr. de Thémines) was one of the most intransigeant among the clergy (he refused even on his death-bed in exile to be reconciled with the pope); when the see of Blois was abolished by the concordat, its territory was given to Orleans, and Orleans was given to Bernier. Bernier's desertion of a losing cause made his efficiency in the service of a new master seem the more odious. Little wonder then that a handful of zealous priests could keep the allegiance of their people, and defy the efforts of the civil and religious authorities. M. de Chauvigny's little

book gives an amusing account of the discomfiture of the imperial police, of the certainty with which they promise a successful 'round up', and the ease with which their victims escape. There are the typical figures of any post-revolutionary period, leaders of the Terror who become respectable bureaucrats, such as, for example, the *accusateur public* of the Department of Loir-et-Cher (and member of the Legion of Honour), who was consistent only in his appropriations of public money. M. de Chauvigny's sketches are, on the whole, good. Sometimes he quotes so fully from minor documents that the wealth of detail is too great and the story too rambling.

E. L. W.

A Short Fiscal and Financial History of England, 1815–1918, by J. F. Rees (London: Methuen, 1921), though not a work of original research, is based on a careful study of some primary sources, and shows an adequate appreciation of the theoretical problems which are suggested or elucidated by the history of our modern fiscal system. Mr. Rees distinguishes seven stages of financial policy, each of which is characterized by some urgent difficulty or some programme of reform. In dealing with each stage he supplies a précis of the principal budget-speeches, adding a useful commentary and references to other documents of cardinal importance. He gives a clear account of the aims of each great chancellor of the exchequer; but it is a pity that he has not endeavoured to summarize on broad lines the general development of financial policy in his period. A useful starting-point for such a summary is provided in his appendix, which contains (pp. 232–5) a table showing the yield of the chief groups of taxes from 1815 to 1916. But it would have been well to analyse on similar lines the national expenditure for these years, showing what new items have crept in, and how the relative importance of various items has altered. The subject of local taxation is almost entirely neglected. A more systematic and comprehensive bibliography would have been welcome. Mr. Rees is bold in his attempt to survey the financial policy of the years 1893–1918 in fifty-four pages. He writes this part of the book with commendable impartiality, but so short an account is necessarily jejune.

M.

Dr. P. H. van der Kemp has added to his works on the history of the Dutch East Indies during the same period *Sumatra in 1818 naar Oorspronkelijke Stukken* (The Hague: Nijhoff, 1920). The present volume is mostly occupied with the controversies with Sir Stamford Raffles, then lieutenant-governor of Bencoolen on the west coast of Sumatra, and goes fully into the action taken by him in the Lampongs, his objection to the surrender of Padang, and his military expedition to Palembang, which was foiled by the energetic action of Muntinghe. It refers also to his claim to Billiton, and has a chapter on his attempts to influence public opinion in England. This he hoped to do by publishing a statement, but his action was contrary to all established usage, and did not save him from, if indeed it did not precipitate, his disavowal by the government. Raffles's action is examined in great detail, supported by numerous quotations of a damaging character, and any future biographer of that able and restless man will have to take

the attack upon him into very serious consideration. Dr. van der Kemp is evidently thoroughly well acquainted with his archives, and prides himself on his accuracy in detail, devoting a section of the introduction to an attack on Dr. Colenbrander for what he designates as the 'scandalous' inaccuracy of his edition of Falck's *Gedenkschriften*.[1] Unfortunately Dr. van der Kemp's own erudition is greater than his judgement. It is questionable whether, looking to all the circumstances of the time, his rough handling of the Netherlands authorities is really justified—he at least shows little sympathy with them—and the attack on Raffles, which appears to be the main purpose of the book, overshoots the mark by its own vehemence. Strong epithets and a profusion of marks of exclamation add nothing to the strength of a case, while remarks such as that on p. 114, that Salmond wrote 'with the usual British humbug', weaken it, since they seem to betray bias—and there are a number of other remarks of the same kind. The views of the author, or of anybody else, on English folly or iniquity in regard to the South African War, the Kaiser, or the German colonies (pp. 171, 178, 249) at best are irrelevant, and at worst leave the reader wondering whether this is a book of sober history or a ponderous party pamphlet. H. L.

There is something pathetic about the life of the scholar-nobleman, *John Patrick, Third Marquess of Bute* (London: Murray, 1921), by his old friend Abbot Hunter Blair. His wealth, his family, his double connexion with Scotland and South Wales, combined with his unselfishness and strong sense of duty, all seemed to point to a life of great public utility. As a public man Lord Bute did all that his position required of him, yet his was such a fine mind, such a serious character, with so little time wasted in trivialities, that one cannot but feel that he might have done much more. His heart, however, was more in his historical and liturgical studies and in his architectural restorations than in his public activities. At Christ Church he was more interested in the Hanging Gardens of Babylon than in the success of his horse in a 'grind', and later on his translation of the Roman Breviary was, as he said, his 'beloved child'. Fortunately he found in his work for St. Andrews University a thoroughly congenial task, appealing both to his munificence and to his love of ancient institutions. His lord-rectorship of St. Andrews was the climax of his life. N.

Dr. T. M. Marshall has edited, in the University of Colorado Historical Collection, the *Early Records of Gilpin County, 1859–61* (1920). Ten years after the California gold-rush came a flood of prospectors to Colorado, some 100,000 in all. In this volume we have records of the organization of nineteen self-governing 'districts' in the new gold area. Most of them adopted the Kansas code of laws, but they supplemented these by mining legislation. Their 'laws' were made in mass meeting, following New England precedent; juries were set up, of three, seven, or twelve members; the suffrage was arranged, in one case being given to all those sixteen years old. Several districts tried to enforce prohibition, and Nevada resolved

[1] See *ante*, xxx. 337.

'that there shall be no Bawdy Houses, Grog Shops or Gamboling Saloons' in its borders. Each district fixed its own boundaries, and this brought Nevada and Spring Gulch almost to war over a disputed jurisdiction: the sheriff of Nevada arrested the Spring Gulch judge, who was tried for 'contempt of court', and Spring Gulch denounced this as a breach of 'the law of nations'. There is, however, no evidence of continual shooting and private war; from the time when a mass meeting 'was Caled to orter' the district records are more concerned with legislation on mining claims than with suppressing anarchy. The volume contains a few notes and a short introduction; its chief interest is in the glimpse it affords of the formation of society in a western state. E. M. W.

Professor Coolidge has now translated the second volume of the *Secret Treaties of Austria-Hungary*[1] (Cambridge, Mass.: Harvard University Press, 1921) in which Dr. Pribram has discussed in detail the negotiations which preceded the Triple Alliance and its various renewals. Bismarck once remarked, 'We keep coming together again because we cannot get along without one another;' and the whole diplomatic history, contained in these pages, is little more than an elaborate commentary on that text. The relations between the allies were seldom harmonious; and had the ultimate decision rested with Austria-Hungary the treaty would probably not have been renewed in 1887. That Germany should have consistently placed so high a value on the retention of Italy is surprising. It was, indeed, explained in 1887 by the Boulangist movement, and the violent expressions of Irredentist feeling in the Alsatian elections, and in 1891 by the conclusion of the Franco-Russian alliance. But in 1902 Italy had practically advertised the emptiness of her adherence by the declaration which Delcassé was authorized to make in the French chamber that 'In no event can these alliances constitute a menace to France either diplomatically or through protocols or military conventions'. Even the Italian action in supporting France at Algeciras, though bitterly resented in Germany, did not seriously shake Bülow in his determination to continue the alliance. The hostility of Conrad von Hötzendorf to Italy was of course notorious, but it is a little surprising to find him urging the unsympathetic Aehrenthal to undertake a 'preventive' war against her in 1907. The main effect and probably the intention of this volume is to attribute throughout the series of negotiations great cleverness, importunity, and even untrustworthiness to Italian diplomacy. The Italians had from the first two principal aims, which they followed with consistency. They were determined to gain a free hand in Tripoli; and succeeded in 1887 in obtaining the promise of aid from Germany, if they found it necessary to declare war on France to secure that object. Secondly, they aimed at securing a full recognition from their allies that Austria and Italy were to be considered as possessing equal interests in the Balkans and the Eastern Mediterranean; and from 1891 their success, at least on paper, was complete. Dr. Pribram's references to British policy in his volume are only casual, but he appears to make a very large assumption, when he states that Italy realized after the conclusion of the Entente in 1904 that

[1] See *ante*, xxxvi. 151.

if war were to break out between herself and France' she must now count on England's participation in the war as an ally of France'. Dr. Coolidge has added some useful appendixes containing the chief documents dealing with the Franco-Russian Alliance, and the Franco-Italian agreements 1900–2. C. R. C.

During the years 1880–90 Mr. J. F. Baddeley was the special correspondent of the *Standard* at St. Petersburg, and he has used the diaries he then kept as the basis of his work *Russia in the Eighties* (London: Longmans, 1921). He has been careful, however, to add notes from modern works, chiefly biographical, to correct or supplement the information he acquired at the time. Little can be learnt from this book about the social or industrial conditions of Russia, and domestic politics are generally ignored, though there are some useful notices about nihilists and their activities. Much of the space is occupied by accounts of sporting parties, which, though in themselves interesting and well described, are of importance only because they gave opportunity for the reminiscences of Count Peter Schouvaloff. This diplomatist was the intimate friend of the author, and told him many anecdotes about his embassy in London and elsewhere. The most important of these confidences concern the congress of Berlin, and, although they contribute few new facts, they make the attitude of Russia much clearer. A valuable account of a debate which took place between Russian ministers in the presence of the tsar about May 1878 makes it quite plain that Russia was compelled to accept the revision of the treaty of San Stefano by the impossibility of continuing the war. Another event on which some new light is thrown is the Penjdeh incident. Mr. Baddeley's view is that after the tsar had at first refused to submit to arbitration the question whether his troops in Penjdeh had broken the agreement of 17 March, Gladstone persuaded him to accept on condition that no award should ever be delivered, and that this proposal of a sham arbitration was a device to give time to allow the effervescence of jingoism in England to subside. If this is the true explanation of the tame ending of an episode which nearly produced a great war—and proof is difficult as the foreign office records cannot be examined for so late a year as 1885—secret diplomacy won a great victory over the public press, which in Russia as in England exercised all its influence to precipitate an armed conflict. G. D.

Dr. A. B. Keith's *War Government of the British Dominions* (Oxford: Clarendon Press, 1921) describes somewhat discursively, but most completely and with abundant knowledge, 'the influence of the war on the activities of the governments of the dominions and on their relations to the government of the United Kingdom'. The chapters on the economic and military efforts and achievements of the dominions are admirable; the summary on pp. 107–8 is convincing. The main point of the constitutional side of the book is the rapid approximation of the dominions to the position of independent states whose approval of the treaty with Germany was made a condition precedent to its ratification by the British empire. Dr. Keith rightly criticises a loose dictum of Mr. Bonar Law as to a

dominion's alleged inherent right to secede (p. 168); he estimates highly the value of royal visits (p. 46); attaches importance to the oversea sentiment against titles and decorations (p. 285); and does not regret the rising feeling against the continuance of appeals to the judicial committee of the privy council (p. 288). The saddest feature of his story is the recrudescence since the war of a narrow and acrid nationalism in almost every quarter of Greater Britain. The book is one of the British series of war monographs published on behalf of the Carnegie Endowment for International Peace and, like other volumes of the same origin, is handsomely bound and printed. G. B. H.

The first edition of Sir Percy Sykes's *History of Persia* was published in 1915; that a second edition (London: Macmillan, 1921) should be called for within the short period of six years is sufficient testimony to the appreciation which this work has received. The second edition has been revised throughout, but it is unfortunate that the author has not obtained the assistance of some orientalist who would have set right the numerous instances of the misspelling of Arabic words scattered throughout the volume. It differs from the first edition mainly in the addition of eight more chapters, carrying on the story of Persia from January 1907 to 1920. Sir Percy Sykes was himself an eyewitness of much that happened in Persia during these recent years, for early in 1916 he was placed in command of a British mission, the object of which was to create a force for the restoration of law and order in the South of Persia. Of the stirring incidents with which he was himself concerned, he gives a vivid and interesting account, and his evidence, as that of an experienced eyewitness, is of great value. But much more material must be made available before a definitive record can be written of events so recent, and the future historian will naturally wish to consult the narrations of other European observers, and study the accounts that Persian annalists may have to give of the last two reigns of the Kajar dynasty. Consequently, from the very nature of the case, the latter chapters of Sir Percy Sykes's book are hardly in keeping with the rest of his account of a country whose history he traces back to so remote a period as 3000 B. C., with the use of sources that have frequently been submitted to critical study. But Sir Percy Sykes's *History of Persia* is likely to remain for some time the standard work on the subject, and it supplies a continuous record of the troubled annals of this country, such as is not otherwise available in English or in any other European language. T. W. A.

Among Indian civil servants of the nineteenth century none devoted himself less sparingly to historical studies than did Captain J. C. Grant Duff, resident at Sātāra in 1818, in collecting materials and compiling his *History of the Mahrattas*. This book took eight years of such voluntary work as most men would refuse if highly paid: 'I wrote the greater part . . . when otherwise working twelve and fourteen hours daily without intermission', and often, as he adds, 'with wet cloths girt about my head', and kept this labour up throughout a sleepless night in some cases, and this in an Indian climate! He had the reward so familiar in imperial history: 'I lost upward

of £1,700 by what I had done'; but the work remains to-day the classical account of these people, and indispensable in every library that is so bold as to handle Indian topics. It is hard to believe that for nearly a century no fresh English edition has appeared. Three published by *The Times of India* in Bombay in 1863, 1873, and 1878 are all now hard to procure; the fourth, published by Cambray & Co., Calcutta, 1912, is 'very poor' and 'full of misprints'. Mr. S. M. Edwardes, true to civil service traditions, has been at great pains to prepare a new edition in two volumes, and Mr. Milford has done students of Indian history a great service in publishing it. For the Mārāthas are perhaps the only Hindu people who within historic times could offer even the germ of a national policy. What elements of patriotism there were among them rested largely on the foundation of the Hindu religions and owed their consolidation to the pressure of a foreign rule and creed: just as they seem to do to-day. But success aroused too many disruptive rivalries to be prolonged, and India is probably far yet from producing real national unity. Mr. Edwardes's introduction includes a short memoir of Grant Duff and his authorship; a most scholarly sketch of Mārāṭha literature, in which he discusses particularly the religious and reforming basis of the Bhakti school of poets and the narrow range of their influence; and an extremely valuable examination of the origin of the Mārāthas. To Sir Herbert Risley's theory that the Mārāthas were of Scytho-Dravidian origin, he prefers Mr. Enthoven's view that their stock was pre-Aryan, reinforcing this by showing the aboriginal character of their chief gods, Khandoba and Bhavani, and their extreme attachment to the ancient land tenures, such men as Sindia and the Bhonsla preferring their title of *pātil* to any other and striving by all means to retain the tiny village-estates of their families. Mr. Edwardes concludes that the Mārāthas are derived from the primeval tribes of the Deccan and their southern lands, and that their claims to Rajput descent are unfounded. The book has an excellent index and a map of southern, western, and part of central India which lacks all indication of contours, often vital to the story, but is otherwise admirably clear. M. E. M. J.

The government of India have published, in a volume of about eighty pages, an account of the proceedings at the second meeting of the Indian Records Commission, held at Lahore in January 1920. Representatives of two Indian states (Indore and Baroda) took part in the deliberations. Several matters of importance were discussed, and among the decisions reached was one to issue calendars of the correspondence between the court of directors and the Indian administrations, beginning with the year 1757. It was also determined to print in full the Madras general letters for the period 1702–39. The volume contains the texts of some interesting papers read or presented by members of the commission, as well as the rules regulating the access of the public to the records of the government of India. W. F.

In walks along the line of the Roman Wall there is one book, small enough to be slipped into the pocket, which every traveller should take

with him. Dr. J. Collingwood Bruce's *Handbook to the Roman Wall* first appeared (under a slightly different title) in 1863, and went through three editions in its author's lifetime. Later editions, revised and corrected in the light of recent discoveries, have been seen through the press by Mr. Robert Blair, who has now produced an eighth edition (London: Longmans, 1921). The work is indispensable to any one engaged in an archaeological ramble, and is admittedly the best concise account of the Roman Wall, although much of its information is out of date. Revision by simple addition is not altogether a satisfactory method, and due proportion is lost when, as in the present edition, we have no more than six pages on Corbridge while the thirty-eight pages on the camp and Roman bridge of Chesters are allowed to remain unaltered. Nor is the revision as thorough as could be wished. On p. 38 'a year or two ago' of the fifth (1907) edition becomes in the 1921 edition 'five or six years ago', while on p. 51 a find described in 1907 as made 'recently' is now stated to have occurred 'about six years ago'. H. H. E. C.

A special interest attaches to the constitution of the towns whose government was found at the Reformation to be in the hands of a religious fraternity, as at Wisbech and at Stratford-on-Avon, where the property records and functions of the gilds of Holy Trinity and Holy Cross respectively were transferred to the municipalities chartered by Edward VI. In *The Gild of St. Mary Lichfield* edited by the late Dr. F. J. Furnivall (London: Early English Text Society, 1920) the few documents illustrative of a similar transition, hitherto printed only in a scarce local history, are made more accessible. The gild ordinances of 1387 are those of a purely religious and social fraternity and contain no suggestion of municipal functions. These appear for the first time in 1487, when the master of the gild, Sir Humfrey Stanley, and the worshipful his brethren ordain certain articles 'for the worship of the Citie, unite, pease and welfare of the Cominalte', the transitional character of which deserves special study. By the first article 'the Master, . . . with the XLVIII shall steadfastly abide together' as they have sworn '. . . to se good rule be kept and pease to be had'. By the second the master and his brothers are to hear disputes between the forty-eight, and if any of the parties will not abide the decision he is to be kept out of the worshipful election and fraternity of the said city and never to come amongst them to no 'Councell' but be discharged as a man forsworn. The third article ordains fines and ultimate expulsion for non-attendance of the forty-eight when summoned by the master and his brethren. Articles 4 to 8 direct the constable to deal with frays, with nightwalkers, rioters, harlots, and scolds by imprisonment, cuckstool, and fine, 'the presentment to my Lord' and 'the punishment of the Church' being carefully reserved. Here alongside some of the distinctive terminology of the fifteenth-century municipal constitution we have features that recall the town communes of the twelfth century, if not the frith gilds of the tenth century. The account of Our Lady's Alms-chest, which had been endowed with £40 for loans to the poor and which was reformed by the visitation of the dean of Lichfield in the same year of reconstruction (1486), is interesting as revealing an

anticipation (in 1457) of the *montes pietatis* (1463) of the Franciscans in Italy. None is to borrow more than twenty shillings for one half-year, and the pledge of gold, silver, tin, lead, brass, pewter, or iron is to be worth three shillings and fourpence more than the loan. The first and second ordinances of the Lichfield Tailors (1576 and 1697) and Smiths (1601 and 1630) are primarily and mainly concerned with restrictions on the entrance of members not apprenticed in the town and upon the work or trade of strangers. The Smiths were an 'ancient society' comprising smiths, goldsmiths, ironmongers, cordmakers, pewterers, plumbers, cutlers, and spurrers; and no member apprenticed to any of these callings is to practise one of the others. G. U.

The *Calendar of Deeds and Documents*, vol. i, *The Coleman Deeds* (Aberystwyth: National Library of Wales, 1921), compiled by Mr. Francis Green, gives a *résumé* of some fifteen hundred documents, once the property of the late Mr. James Coleman, but now preserved in the National Library. Practically all these documents relate to Wales (every county being represented) and Monmouthshire. The great bulk of them are deeds of various kinds drawn up in connexion with the transfer of land, but included in the collection are also a fair number of wills and other miscellanea. All are of relatively modern date: a few are earlier than 1550, but the majority fall between that date and the middle of the nineteenth century, those of the seventeenth and eighteenth centuries being the most numerous. The documents are calendared, with a few exceptions, county by county and in chronological order, and apart from occasional slips in the spelling of place-names—slips that can scarcely be entirely eliminated, and in any case are not seriously misleading (e. g. no. 1192, Boller for Bolles, and no. 1259, &c., Mertin-ysglau for Mertin-ysglan)—the work seems to have been carefully done. The volume contains material of considerable interest to the student of Welsh history. Especially valuable is the great amount of topographical information, such as names of vills, fields, houses, roads, and lanes, profusely scattered through the leases and similar deeds. The primary value of these data, of course, will be to the student of the relatively modern period to which the documents belong, but they are not without interest even to one whose bent is more towards things medieval. To take an example: one of the most difficult problems of Welsh history is the problem of medieval Welsh boundaries, especially in the Marches. The solution of the problem, so far as a solution can be hoped for, will probably be reached only by carefully collating all the available topographical data, and it will often be necessary to supplement the strictly medieval evidence with later evidence such as is made accessible in the present Calendar. The defect of the Calendar as it now stands is the lack of an index. The omission is explained in a prefatory note, which promises 'a full index to the contents of this and other volumes as part of the project'. One hopes that the 'other volumes' will be numerous, and therefore that the 'full index' (it can scarcely be too full) will not be the last part of the project to be achieved: for while such volumes as this are without an index, their practical utility is gravely diminished.

J. G. E.

When writing his interesting pamphlet entitled *Loughborough during the Great Civil War* (Loughborough: Echo Press, *s.a.*) Mr. E. W. Hensman seems to have found it necessary to eke out the history of the town with sketches of Leicestershire worthies and accounts of events not especially connected with his subject. As Loughborough was not of great importance in the civil war, it is a pity that Mr. Hensman did not change his design and deal with the county as a whole. If he pursues his researches he will do well to track down the Benett collection of Rupert papers. The majority of them were acquired by the British Museum; some were purchased by the late Mr. Alfred Morrison;[1] copies of others were presented to the Bodleian Library by Professor C. H. Firth; and a few are printed in W. A. Day's *Pythouse Papers* (1879). He should also use more modern editions of his authorities. This would not only enable readers to find his references more easily, but would also supply him with much new information. Mr. Firth's edition of the *Memoirs of Colonel Hutchinson* is a good example. Had Mr. Hensman used this edition instead of that of 1806, he would have found in the appendixes and foot-notes authorities mentioned which he did not use, and some valuable extracts from pamphlets, newspapers, &c. It is also probable that if he had a wider knowledge of the modern historical literature of the civil war he would not express his willingness to break a lance on behalf of the authenticity of the Squire papers, which historians have long since agreed to regard as spurious.

G. D.

Since no adequate topographical history of Oxfordshire exists and since the sources are still largely in manuscript, the publication of the first part of the *Parochial Collections made by Anthony à Wood and Richard Rawlinson* by the Oxfordshire Record Society (Oxford, 1920) will supply a long-felt need. The purpose of both collectors was a parochial history of Oxfordshire, Anthony Wood being inspired by Dugdale's *Warwickshire*, Rawlinson aiming at a much larger scheme. Wood toured the county in 1656–7 and 1675–6 intent on monumental inscriptions and coats of arms; in 1718 Rawlinson, the non-juring priest, travelling in a chaise in company with the bookseller Curll, came to inquire after crosses, feast days or wakes, fairs, patron saints, charities, schools, bells, sometimes church plate and even registers (see Brize Norton, where a 'Clark ... being a Tayler cut 11 Leaves out of the Register for Measure'). Both give details of churches and other buildings and now and then a little historical information, too often inaccurate, as that on Clattercoats Priory (p. 98) or Cogges. Otherwise, the resultant surveys, made by well-informed and on the whole careful recorders (Wood especially), have always been an important but, owing to their chaotic character, irritating source for the historian of Oxfordshire. Their publication, which has been no light task, has been admirably accomplished by the editor of the series, the Rev. F. N. Davis. It is now possible to realize the losses of the last two hundred years, more especially in brasses and in glass, notably at Rampton, Bucknall, Beckley, Chipping Norton, and Coombe. Much

[1] *Hist. MSS. Comm.*, 9th *Rep.*, pt. ii, and the *Catalogue* of Mr. Morrison's Manuscripts.

valuable material will be found in the accounts of churches which have been since rebuilt, such as Albury, Banbury, Bladon, and Churchill, and in the contemporary notices of structural alterations to, and decorations of, churches, vicarages, and other buildings, such as Ham Court, Bampton. Pending the appearance of the last part with its appendixes on the manuscripts and the index, the name of the parish heading each page and a few editorial notes would have been useful to the reader; we should have liked to know who really was the builder of Steeple Barton manor-house and why the inscriptions in Charlbury church have been omitted. Indeed a provisional note on the manuscripts might have been given stating their exact date and their correlation, and explaining why Rawlinson's copy of Wood's notes is sometimes given in preference to the original. Occasionally this leads to mistakes; the information regarding John Osbaldeston on p. 80 is from Wood (E. 1, fo. 142), not Rawlinson. The transcript, however, seems to contain remarkably few errors: '1618' should be '1616' on p. 15 (where also the reference—Wood E. 1, fo. 186—is omitted); the tinctures of the arms on p. 22 need correction; on p. 85 'ye . . . jeweller or belonging to Jewell house' should read 'ye qu[een Elizabeth's] jeweller or belonging to ye Jewell house' (Wood E. 1, fo. 127^{v}); a line is omitted in Richard Croft's epitaph on p. 93 (Rawl. B. 400 f, fo. 170^{v}); while 'Noc' is a misprint for 'Noe' (p. 64) and 'Wood E.' for 'Wood B.' (p. 22). But these are small and unimportant points, which may be useful in a 'corrigenda' note.

M. V. T.

The work of Father Gaston Sortais, S.J., *La Philosophie Moderne depuis Bacon jusqu'à Leibniz. Études Historiques.* (Paris: Lethielleux, 1920), is planned on a very elaborate scale, and, when completed, should prove a most valuable guide to philosophical literature. The first volume, now published, deals only with Bacon and his predecessors. The question of method is, of course, fundamental in the preliminary inquiry, as indeed it is throughout the volume; and the views which Bacon's predecessors held about method are to be gathered both from the philosophers and from the men of science themselves. M. Sortais gives a full account of the philosophers, dealing with Ramus, Sanchez, Acontio, Hemmingsen, and the two Englishmen with whom Bacon may possibly have been brought into contact at Cambridge, Everard Digby and William Temple. A careful account of all these is given. The treatment of Digby and Temple is naturally indebted to the earlier work of Freudenthal. Only rarely is the author confused by English official terminology, as by the words 'senior fellow', or when he speaks of Digby as '*Sir* Everard Digby'. Nor do I know his authority for the statement (p. 54) that Digby was given a benefice on being deprived of his fellowship at St. John's College, Cambridge, towards the end of 1588. But these are small matters. The men of science are dealt with only in general terms, and are even spoken of (p. 279) as having merely followed the correct method by instinct. This statement cannot be justified, at any rate of Gilbert and Galileo. It is true that Gilbert did not write on method; but the character of his work does not support the idea that he had not

reflected on method. An analysis of the method employed by him might have been usefully compared with the Baconian, and might incidentally have thrown some light on the terms in which he is referred to by Bacon. Galileo, on the other hand, both criticised the old logic and expounded his own logical method, though his writings on the subject were published after Bacon's death. The greater portion of the volume is devoted to Bacon himself. There is an elaborate review of his life, an analysis of his works, a discussion of the value of his ideas, and an account of his influence in England and abroad. All this is fully and elaborately supported by documents, a vast mass of opinion from many quarters being brought together. In matters open to dispute the author's judgement usually inclines against Bacon, whether as a man or as a philosopher. 'Bacon's talent', he says, 'was rather literary than scientific': he was a poet and orator rather than a philosopher and man of science (p. 378). I do not think that this judgement is entirely justified. There were many defects in Bacon's equipment and performance; but he was something more than a mere man of letters; he had the faculty of vision, and his vision was that of a philosopher. W. R. S.

In his *Lehrbuch der historischen Methodik* (Regensburg: Kösel, 1921) Professor Alfred Feder, S.J., has published the results of many years' educational work, with a view to assist in the investigation of historical material and the promotion of sound historical writing. His field is very wide, ranging from the most general conception of history in relation to sociology and other human sciences, down to the kind of errors in medieval handwriting which beset the beginner in manuscript study. The conditions of obtaining historical certainty, the need of allowing for the human element in contemporary records, the limits within which historical analogy is a safe guide, are subjects which come up for discussion, frequently illustrated by reference to historians ancient and modern. English readers may be disappointed that few of our historians are mentioned. Among historical sources the author lays stress on the monuments in museums, especially coins. Considering the extent of the ground to be covered, and the minute directions and applications of principles required, it was necessary that the style should be much compressed. The book is to be regarded as a comprehensive scheme of lecture notes, admirable for discussion in class, rather than as a finished literary work. A. G.

The *Einführung in das Studium der Geschichte*, by Professor Wilhelm Bauer (Tübingen: Mohr, 1922), is a work similar in general objects to Dr. Feder's. It is, however, larger and more comprehensive, and written in a style more likely to attract the ordinary student. Some of his remarks on the qualifications necessary for a writer of any particular kind of history are wise and suggestive. He believes in the desirability of cultivating a good literary style, and approves of epigrams, though his examples may not always be happy (e.g. Mommsen's 'jenen eckigen vornehmen Mustersoldaten' of Pompeius). The weaker side of the work appears in the bibliography at the end, although it has evidently been compiled with

great learning and labour. English readers will look in vain for mention, or for more than casual mention, of some of our epoch-making writers, or will find their names (not always rightly spelt) in connexion with some of their least important works. This defect may, however, be condoned in consideration of the great difficulty of obtaining books at Vienna during and shortly after the war. Learning, enthusiasm, breadth of view, and sometimes great aptness in expression mark this work and entitle it to the notice of teachers or intending writers of history. A. G.

The third edition of the late Dr. Oppenheim's *International Law*[1] has now been completed. The revision of the second volume, *War and Neutrality* (London: Longmans, 1921), unfinished at the time of the author's death, was carried out by Mr. R. F. Roxburgh. Q.

Dr. W. S. Holdsworth has edited in the *Law Quarterly Review* (July 1921, vol. xxxvii, no. 147) the important tract in which Sir Matthew Hale criticized Hobbes's doctrine of sovereignty (Harl. MS. 711). As Sir Frederick Pollock, who adds a prefatory note, and Dr. Holdsworth show, the tract is of interest, not so much as a commentary on Hobbes, but as a defence of the English legal system and of the historical and political ideas which underlay the doctrine of 'mixed monarchy' favoured by the English common lawyers. In the October number of the Review, Dr. E. F. Churchill continues his researches into the history of the exercise of the English royal power. His article, 'Dispensing Power and the Defence of the Realm' is a study in administrative policy rather than in the development of a constitutional problem. Statute law, intended to encourage English shipping or to control the movements of persons and military material between England and the Continent, was, of course, a continuation of purely administrative action. Only slight opposition was offered to a free exercise of royal discretion in the administration of the statutes. Indeed Dr. Churchill does not distinguish between an expression of the dispensing power and the issue of a regulative licence, such as a passport, permitted under certain statutes. Probably no clear distinction was or could be drawn in practice. But in the latter case no question of dispensing from a *malum prohibitum* arose. The offence under 9 Edward III lay, for example, not in the export of bullion but in export without a licence, and presumably, if royal protection were extended to offenders, it would take the form of a pardon. F. M. P.

Some unpublished material in the 'Dutch and Walloon Strangers' Book' of Norwich, which covers the years 1564–1643, is used by Miss Kate Hotblack in an article in *History* for January 1922 (New Series, vol. vi, no. 24). P.

The *Bodleian Quarterly Record* for the fourth quarter of 1921 (vol. iii, no. 32) has as a supplement five poems of King James I, printed in the Library on the famous press of the late provost of Worcester College, Dr. Daniel. Q.

See *ante*, xxxvi. 158.

The Italians are capable of an interest in their past that appears to be boundless; witness the numerous 'Deputazioni di storia patria' and the local historical societies which chronicle the history of particular towns. It is now the turn of Tivoli. Among the contributors to the first number of the *Atti e Memorie della Società Tiburtina di storia e d'Arte* (1921) we are glad to find Mrs. Hallam, who claims to have identified the spot where the villa of Horace stood, and Mr. Ashby, who has recast the article dealing with the Roman remains in the monastery of St. Antonio which first appeared in the *Journal of Roman Studies* in 1914. There are further interesting articles on the earliest bishops of Tivoli (by Monsignor Cascioli); on the residence of Cardinal Ippolito d'Este at Tivoli (by Dr. Presciutti); and an exhaustive study on the Villa d'Este built by Cardinal Ippolito (by Signor Pacifici). A few notable documents concerning the brief occupation of Tivoli by Garibaldian soldiers in 1867, during the episode which culminated with the battle of Mentana, close the series of articles. These studies promise well for the future of the society, and show that Tivoli is as deserving of historical research in its medieval and renaissance days as in Roman times. C. F.

With commendable enterprise the Department of Modern Indian History of the University of Allahabad has started a *Journal of Indian History*, under the editorship of Professor Shafaat Ahmad Khan. The journal is to be issued three times a year, and the publishers are the Oxford University Press. The first number (November 1921) contains several interesting articles, besides reviews of recent historical works. Judging from the numerous typographical errors, it was prepared in some haste; and the same reason may account for the fact that the editor's own contributions occupy nearly two-thirds of the space. It was a good idea to print a number of documents selected from English archives, dealing with the trade between England and India in the seventeenth century; but the choice has been rather haphazard, and there are many obvious errors in transcription. W. F.

CORRECTIONS FOR THE JANUARY NUMBER

Pp. 81–2. Mr. H. G. Richardson supplies the following corrections for the readings in the Latin text: Line 7, *for* parliamentum, parliamentum ; line 22, *for* proficietur, perficietur; line 23, *for* Octabam, Octabas; lines 40–1, *delete* cum perventum . . . intererunt. He also notes that in the previous sentence the last clause, from 'et similiter', is an interlineation running over two lines, and that a stop (*.*) in line 7 after *expedire* elucidates the sense.

P. 92, n. 7, for *Dict. of Nat. Biog.* read *Biog. Nat. de Belg.*

P. 105, n. 3, for *Dict. of Nat. Biog.* read *Register of the Univ. of Oxford*, i. 101.

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